## United States Court of Appeals for the Second Circuit



# SUPPLEMENTAL APPENDIX

74-1921

#### UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

STANLEY V. TUCKER,

Plaintiff-Appellant

T-3642

-VS-

No 74- 1921

JEAN NEAL, ROBERT R. ANDERSON, and ANDERSON & ANDERSON, etc. Defendants -Appelless

APPELLANT'S SUPPLEMENTAL

APPENDIX

Appeal From Final Judgment Entered on Cross-Motions For Summary Judgment on May 29th, 1974 (Ruling dated March 5th, 1974) and

Appeal From Final Order of Judgment Made June 11, 1974 Denying Motion For New Trial and Motion To vacate Judgment

HONORABLE T. EMMET CLARIE TRIAL JUDGE



STANLEY V. TUCKER APPELLANT/PLAINTIFF Box 35 Hartford, Conn 06101

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#### UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONN.

STANLEY V. TUCKER.

Plaintiff

C. A. NO H-8

-vs-

JEAN NEAL, ET AL.

Defendants.

NOTICE OF MOTION, MOTION, SUPPORTING AFFIDAVIT &

SUPPORTING BRIEF FOR SUMMARY JUDGMENT FOR PLAINTIFF ON THE COM PLAINT & FIRST AMEND

ED COMPLAINT

TO DEFENDANTS HEREIN: PLEASE TAKE NOTICE that on Monday January 7th, 1974 at 10: 00 am or as soon thereafter as matter may be heard in the South Courtroom of the aboveentitled court at 450 Main Street, Hartford, Connecticut Plaintiff will move this court for summary judgment for plaintiff on the complaint and first amended complaint.

This motion will be made on the ground that there is no genuine issue as to any material fact having to do with Plaintiff's complaint and first amended complaint, and that Plaintiff is entitled to judgment thereon as a matter of law.

The motion will be based on this notice, and motion and the attached supporting affidavit and brief and the entire file.

By

STANLEY V. TUCKER

#### Certificate of Service By Mail

I, STANLEY V. TUCKER, hereby certify that on the 22nd day of December 1973 I served the above notice of Motion & Motion and attached affidavit and brief on Defendants herein by mailing a copy postage prepaid air mail addressed to the Defendants as follows:

Jean Weal Robert R. Anderson 621 E. Main 621 E. Main 621 E. Main Santa Paula, Cal. Santa Paula, CAlif Santa Paula, Calif

Anderson & Anderson

-1- -I 1-By\_ Pursuant to Local Rule 10 (a) 3 plaintiff moving for summary judgment on the first and second causes of action contends that there is no genuine issue as to any of the following facts.

#### FIRST CAUSE OF ACTION

- That on or about September 1972 Defendant, Jean Neal, caused to be recorded with the Town Clerks of Hartford,
   Torrington, and Bristol the judgment liens, copies annexed to Plaintiff's complaint as EX B- C D E F G H & J.
- 2. That on or about May 1973 and June 1973 Defendant, Jean Neal caused to be recorded with the Town Clerks of Torrington and Bristol judgment liens, copies annexed to the First Amended Complaint as Ex O P Q and R.
- 3. That the recording of said liens was done without notice to Plaintiff.
- 4. That the recording of said liens was done without any due process hearing to Plaintiff.
- 5. That the 14 liens are not needed to provide security for Defendant, Jean Neal's, claimed judgment.
- 6. That Defendant, Jean Neal, made no application to any court nor did any court direct or order that Jean Neal record said liens.
- 7. That at the time Jean Neal recorded said liens the finality of the California order said liens were based on was subject to modification or reversal by reason of appeal to the 9th C. A. and Petition For Certiorari to the U. S. Supreme Court.

#### SECOND CAUSE OF ACTION

- 8. That Jean Neal's liens and California judgment are based on an alleged tort taking place in California in 1965.
- 9. That Process in the District Court in California which made the order upon which said liens are based was served under

Californias "long arm" statute first adopted July 1, 1970.

10. That Plaintiff left California in November 1961 and moved to Connecticut and has continuously maintained residence and conducted all his business affairs in Connecticut to this date.

- 11. That from November 1961 to this date Plainitff's sole relationship with California has been to exercise first amendment freedoms to travel across state lines, to visit his minor children and to seek to vindicate in the California courts injuries and injustices Plaintiff and/or his children suffered at the hands of Defendants herein and/or their relatives or clients.
- 12. That Plaintiff's last visit to California was in June 1969.
- 13. The USDC ND of California in granting summary judgment upon which Jean Neal bases her claim did not at any time issue any memorandum or order as to PLaintiffs contention that that Court lacked jurisdiction by reason of constitutional limitations on jurisdiction over non-residents who lack the necessary minimum contacts.

	STANLEY	11	muau
By			

AFFIDAVIT OF STANLEY V. TUCKER IN SUPPORT OF SUMMMARY JUDGMENT FOR THE PLAINTIFF I, STANLEY V. TUCKER, being first duly sworn declare: That I am plainiff herein and have personal knowlege of all matters set forth below and if sworn can testify competently as to each of the matters set forth below: That prior to 1961 I resided in California and in Nov. 1961 I left California and took up residence in Connecticut and have continuously resided in Connecticut to this date. 2. That my last visit to California was June 1969. 3. That the claim of Jean Neal is based on an alleged

tort that took place in California in 1965.

4. That from 1961 to 1969 my sole activity in California has been random exercise of first amendment freedoms to visit my children, take vacation, travel across state lines and to seek to vindicate their and my federally guaranteed rights by litigation.

5. That I was never served with any notice by Jean Neal in regard to her recording of 14 judgment liens complained of.

6. That I was never given any due process hearing in court prior to Jean Neal recording of said liens.

7. That I have copies of all documents filed in the USDC - ND California in the litigation upon which Jean Neal bases her claims herein and I have never recieved or seen any court memorandum or order litigating my contentions made herein that the California court violated my constitutional due process rights by lack of jurisdiction by lack of minimum activity on my part in California.

### BRIEF IN SUPPORT OF SUMMARY JUDGMENT FOR PLAINTIFF FACTUAL BACKGROUND

Plaintiff is and has been a resident of Connecticut since
Nov ember 1961. From 1961 to about JUne 1969 Plaintiff visited
his minor children in California and has not visited California
since. IN addition Plaintiff wrote letters to California
and sought via counter-suit and filing of civil actions to
defend the fundamental federally guaranteed rights, said
rights ruthlessly violated by Defendants, their relatives
or clients who filed in the California State Courts about
40 actions both criminal and civil against Plaintiff all
of which were dismissed except a few, like this action,
where judgment was rendered under conditions of denial of due
process or without jurisdiction.

Thus a major issue is: Where Appellant has exercised his First Amendment freedoms in California, to travel freely across state lines, to communicate with his children, or with others, to seek redress of wrongs in the courts can California's newly enacted long arm statute be retroactively applied in the federal court without violating the limits set by the U.S. Suprme Court in its decisions limiting out of state sevice of process on due process grounds and without violating both state and federal decisions limiting service under long arm type statutes.

The California court, USDC - NC of California, that granted the summary judgment at issue herein has never ruled or issued any order or memorandum regarding the countions Plaintiff raises herein as to the due process rights and lack of adequate service over Plaintiff

under constitutional limitations. Indeed three counter-claims filed by Plaintiff herein in the California action challenging constitutionality of the California long arm statute on its face and as applied are still pending in that court.

- I. THE CALIFORNIA COURT LACKED JURISDICTION BY REASON OF LACK OF MINIMUM ACTIVITY ON PART OF PLAINTIFF AND ITS ORDER GRANTING SUMMARY JUDGMENT IS VOID
- A. THE "MININUM\_ACTIVITIES"TEST ESTABLISHED BY THE U. S. SUPREME COURT IN International Shoe IS NOT MET BY THE FACTS\_OF\_THIS ACTION. 326 U. S. 310

The Supreme Court in International Shoe, supra, established a flexible rule for determining jurisdiction.

It is evident that the criteria by which we mark the boundary line between those activities which justify this objection of a corporation to suit and those which do not cannot be simply mechanical or quantitative. The test is not merely, as has sometimes been suggested, whether the activity, which the corporation has seen fit to procure through its agents is another state, is a little more or a little less.......Whether due process is satisfied must

depend rather upon the quality and the nature of the activity, in relation to the fair and orderly administration of the laws of which it was the purpose of the Due Process Clause to insure. That clause does not contemplate that a state may make a binding judgment in personam against an individual or corporate defendant with which the state has no contacts or relations."

It was noted by the Supreme Court in McGee v International

Life Insurance Co, 355 U. S. 220, a trend of expanding jurisdiction

over a non-resident. However in Hanson v Denckla, 357 U. S. 235,

the High Court still recognized there were limits to this expansion:

"But it is a mistake to assume that this trend heralds the eventual demise of all restrictions on personal jurisdiction of a state court (cites). Those restrictions are more than a guaranty of immunity from inconvienience of distant litigation. They; are a consequence of territorial limitation on the power of the respective states. However minimal the burden of defending in a foreign tribunal, a defendant may not be called upon to do so unless he has had the "minimal contact"..... It is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking benefits and protection of its laws."

"More contacts are required for the assumption of jurisdiction by the state than mere solicitation of sales" Green v Chicago, Burlington & Quincy Railroad Co 205 U. S. 530.

In this instant action Appellant solicited no sales, had no office nor residence in California, had no agents and conducted no business and clearly does not fall within the activities approved by the United States Supreme Court for the exercising of extraterritorial jurisdiction.

"It has generally been recognized that the casual presence of the corporate agent or even his conduct of single or isolated items of activities in a state in the corporation's behalf are not enough to subject it to suit on causes of action unconnected with the activities there."

St Clair v Cox 106 U. S. 350
Old Wayne Life Assn v Mc Donough 204 U. S. E. 21
Frene v Louisville Cement Co. 134 Fed 511

B. THE PEDERAL CIRCUIT COURTS OF APPEAL ARE CONSISTANT IN DENIAL OF "LONG ARM" IN PERSONAM JURISDICTION IN FACTUAL SITUATIONS SIMILAR TO HEREIN.

While it has already been noted that International Shoe, sup spawned a more liberal era in extra territorial jurisdiction from 1945 it is important to note that the first "long arm" statute was adopted in Illinois in 1957. California's long arm statute is really a series of inter-related statutes, two of which concern

July 1, 1970. Earlier California had statutes, CC373 and CCP 411.1 cmanded 1941 permitting service on the Secretary of State in case of domestic corporations unless they filed with the secretary of state a natural person within the state for purposes of serving process. These statuteswere declared UNCONSTITUTIONAL by the Appellate Departments of the Superior Court of California Nov 30, 1942 on grounds they violated the due process clause of both

the state and federal constitutions in that the code sections are indefinite, uncertain and not subject to reasonable construction.

Bruhnke v Golden West Wineries 53 Cal Ap 2d. 943

Since adoption of the first long arm statute in 1957 by Illinois there has never been a review by the United States Supreme Court of the constitutionality of any of the state's long arm statutes. Notwithstanding the federal C. A.'s by a series of consistent decisions have clarified the limits due process places on out of state service to prohibit service such as took place here. These case are reviewed below.

1. 1st C. A. 1970: Seymour v Park Davis & Co. 423 F 2d 584

Held: New Hampshire long arm statute not applicable over Michigan firm that only advertised and employed salesmen in New Hampshire.

Note: Plaintiff herein neither sold nor bought nor employed salesman in California.

2. 2nd C. A. 1958 :

McInnes v Fontanbleu Hotel Corp 257 F 2d 832

Held: N. Y. denied long arm jurisdiction over Florida Hotel that maintained small office in NYC with 3 employe

Note: Plaintiff herein maintained neith office nor residence in California

#### 3.3rd C A: Partin v Michaels Art

Held: Libel action dismissed against Kentucky
Corp that sold parking meter in Pennsylvania
and sent skilled technicians to Penn. on
grounds Kentucky Corp not doing business
in Pennyslvania.

Note: Plaintiff herein neither sold parking meters nor sent skilled technicians to California

#### 4.4th C A: Ratliff v Cooper Labs.

c. The Court of Appeals, Craven, Circuit Judge, held that activities in South Carolina by defendant drug companies, one of which had filed application in the given authority to do business a South Carolina and had appointed an arent for service of process and additionally maintained five "detailmen" who had in South Carolina and promoted that defendant's products through per-

stress throughout the state, and the others throughout the state, and the others if which merely mailed promotional wature to approximately 650 doctors in mailing lists and solicited by mail whalers and wholesalers, were not expose enough to warrant in personam diffiction when plaintiffs were nonrespectant and cause of action arose outside forum and were unconnected with defeat's activities in South Carolina.

Leversed.

#### 5. 4th C. Λ. 1966: Curtis Pub Co v T. B. Birdsing 360 F 2d 344

Held: Long arm jurisdiction denied under due process limitations in Alabama in libel action over Mississippi residents.

Note: In this action California long arm jurisdiction should have been denied over Plaintiff resident of Connecticut.

6th C. A. 1964: Velandra v Regie Natiionale Des Unines Renault
336 F 2d 292

Held: Long arm jurisdiction denied in Michigan for insufficient business activities where three dealers sold foreign cars for Defendant and one had gross sales upward of \$100,000

Note: In this action Plaintiff sold no products in California and long arm jurisdiction should be denied.

6.

7th C. A. 1947: Minnesota Mining v International Plastic Corp

Held: Under due process in personam long arm jurisdiction denied in Illinois over N. Y. firm that sold product via dealer

8.

8th C. A.: Jennings v McCall Corp.

1963 320 F 2d 64

Held: Sales agent not managing agent permitting service under Rule 4 (d).

Defendant was not liscenced in state and Having no executive offices nor manufacturing plant was not amenable to suit in the state.

Note: In this action Plaintiff was not amenable to suit in California as he had no offices nor plant in California.

Oth C. A. 11959: L. D. Reeder Contractors v Higgins Industries
265 F 2d 768

Held: District Court dismissed complaint on grounds of no jurisdiction when Arizona Plaintiff bought defective blocks from Defendant's California distributor.

10th C. A. 1971: Anderson v Shiftlett

Held: Long arm in personam jurisdiction rejected based on one contract activity on strength of Cresent Corp v Martin Okl 443 P 2d 111

Note: Defendant hints in her papers on possible one tort jurisdiction ( the alleged malicious prosecution) this is rejected Okl.

10th C. A. 1971: Hydraulics Unlimited v B/J Mfg Co

Held: Insufficient contacts in Colorado to sustain "long arm" service in Kansas where diverse meetings took place in Colorado with officers of Defendant negotiating contract for patent liscencing and corresponding regarding contracts.

Note: in this action there is insufficient activity as Plaintiff only wrote letters and visited California to see his minor children or to negotiate for their joint rights.

Eleven cases all clearly applicable herein were cited above where the Courts of Appeal consistently rejected long arm jurisdiction over factual situations where there was far more aclivity than in this instant action.

In case No 4 above in the 4th C. A., Ratliff v Cooper lab, 1944 F 2d 745, a Petition For Certiorari was filed in the U. S. Supreme Court. On November 9th, 1971 the U. S. Supreme Court squarely considered the due process arguments pro and con (No 71-302) and denied the Petition for Certiorari from the 4th C. A. order dening long arm jurisdiction in South Carolina due to insufficient activities. This denial had the effect of affirming the 11 cases cited above where the Courts of Appeal denied long arm in personam jurisdiction due on due process grounds due to lack of activity. Petitioner, Ratliff, then filed in the U. S. Supreme Court a petition for re-hearing, and said petition was denied by the U. S. Supreme Court (92 Sup Ct. 561) on December 20th, 1971.

#### II. SOUND CALIFORNIA STATE LAW PRONOUNCED IN SPRING 1972 AFFIRMS THAT JURISDICTION IS LACKING OVER APPELLANT.

At the time the USDC-ND CALIFORNIA made its order there was little, if any, case law on the subject of jurisdiction in the state courts mainly because the California long arm statutes are relatively new - effective July 1, 1970.

A most noteworthy case applicable to facts herein involved Mr Titus, resident of Massachusetts, who wrote letters
to California, and litigated and/or negotiated and conducted
legal affairs with his ex-wife, resident of California, in
regard to his minor children domiciling in California.

The California State Courts refused jurisdiction "in Personam" over Mr Titus on grounds such "legalistic" activities a
were not "activities" within the rule contemplated by the U. S.
Supreme Court when the due process limits were set for state and
federal courts to follow in International Shoe, supra.
100 Cal Rpt 477

floger Eldon TITUS, Jr., Potitioner,

The SUPERIOR COURT of the State of Cal-Hernis, IN AND FOR the COUNTY OF COUTTA COSTA, Respondent;

Anne MacDonald KELTY, Roal Party
in Interest.
Cly. 30332.

Court of Appeal, First District,
Division 1.
Feb. 25, 1972.

Proceeding on petition for an alternative writ of mandate requiring Superior Court to quash service of summons and show cause order served on petitioner by mail in an action brought by real party in interest to establish a fore gn divorce decree as a judgment in state. The Court of Appeal, Molinari, P. J., held, inter alia, that act of father, following foreign divorce decree awarding joint custody, in . . sending children to California and in forwarding to mother in California agreement concerning children's temporary custody, which agreement was signed by mother in California, did not cause "effects in the state by an act done elsewhere" nor did it constitute "doing of an act in the state," and California did not have personal jurisdiction of father for purpose of imposing on him obligation of child support, where father's intent in sending children to Cali-. fornia was clearly and undisputably for " purpose of having them visit their mother during summer, with understanding that they would return at end of period, and where father's relationship with California was primarily a legalistic relationship arising out of isolated act of sending agree-· ment to California for mother's signature.

Writ issued to extent ordered, ...

LITIGATION INCLUDING MALICIOUS PROSECUTION AS A JURISDIC-TIONAL BASIS FOR LONG ARM JURISDICTION

The leading case exploring in light of International

Shoe, supra, the jurisdictional contentions based on malicious prosecution and on litigation in general and relecting such a claim is Collar v Peninsular Gas Co 295 SW 2d 88.

Summons was quashed and the complaint dismissed and the

Missouri Supreme Court upheld the dismissal based on the

lack of appropriate activities:

... Nathan v. Planters'

Cotton Oil Co., 187 Mo.App. 560, 174 S.W. 126. It is generally held "that single or isolated acts, contracts, or transactions of such corporations in the state will not ordinarily be regarded as a doing or carrying on of business therein, even though they may be said to fall within the usual or customary business of the corporation." 23 Am.Jur., Foreign Corporations, Section 370, pages 353, 354.

In Painter v. Colorado Springs, etc., Ry. Co., 127 Mo.App. 248, 101 S.W. 1139, an agent of a foreign railroad corporation, which had no tracks or place of business in this state, came to Missouri for the sole purpose of investigating a claim for damages against the corporation. While he was so engaged the claimant filed suit against the railroad and summons was served on the said agent. The court held that the stated facts did not constitute doing business in this state and hence the trial court properly sustained the plea to the jurisdiction and dismissed the action.

No cases have been cited, and our research has disclosed none, wherein the courts have discussed the effect of filing a suit insofar as such relates to the issue of "doing business" in determining the question of jurisdiction and valid service of process upon a foreign corporation. However, it seems well settled that engaging in litigation, and the compromise and collection of delas, do not constitute "doing business" within the meaning of statutes prescribing the conditions under which a foreign corporation may transact basiness in a state and providing penalties for noncompliance. United Mercantile Agencies v. Jackson, 351 Mo. 709, 173 S.W.2d 881; 20 C.I.S., Corporations, § 1836, p. 52.

IV. THE STATUTES OF LIMITATIONS ON TORTS IN BOTH CALIFORNIA AND CONNECTICUT BAR USE OF THE TORT AS JURISDICTIONAL BASIS

Plaintiff's last visit to California was June 1969 about 3 1/2 years ago whereas the California long arm statutes were adopted effective July 1, 1970 (CCP 410.10 and CCP 415.30) and whereas the alleged tort upon which Defendants purport to base jurisdiction of the California court took place in 1965.

Such a jurisdictional basis is barred by the statutes of limitations. There is nothing in any of the state's long arm statutes to even hint that they over ride or extend the statutes of limi tations. Indeed such an argument would violate the equal protection clause of the U.S. Constitution since there would be two unequal classes of citizens; those protected by statutes of limitations and those denied this protection by allegedly falling under a long arm statute.

Conn G. S. 52-577: "No action founded upon a tort shall be brought but within three years from the date of the act"

California CCP 339 (1): Time of commencing actions: Two Years

An action upon ... a liability not
founded on an instrument in writing"

V. THE CALIFORNIA ORDER MADE WITHOUT JURISDICTION OVER PLAINTIFF RESIDENT OF CONNECTICUT IS SUBJECT TO ATTACK IN THIS COURT ON JURISDICTIONAL GROUNDS

It has been long established law that there are certain fundamental jurisdictional facts that the estblishment of is essential otherwise lacking these essentials, such as jurisdiction the acts of the court are a nullity or void and may be attacked in separate or collateral proceedings.

Pennoyer v Neff 95 U. S. 714. Noble v Union River Logging—I 14—Railroad 147 U. S. 173. In this action the California

court has never issued a memorandum or order regarding
Plainitff's defenses or contentions made herein as to
lack of jurisdiction in the California Court. This is
substantiated by this file being barren of such an order
as well as the counter-claims of this Plainitff still pending
in the California court and not yet ruled upon. This action
being in Connecticut this District Court should here
and now make the necessary findings as to the question of
minimum activities existing or not existing in California
in accordance with federal law and the law of the state
of the forum - Connecticut.

The Defendants in this Court seek to perpetrate a fraud upon this court, namely that the Plaintiff's defenses raised herein were formerly litigated yet fail to shown any order or memorandum resolving the issues raised by Plaintiff.

The order for summary judgment obtained by Defendants herein upon which they base their judgment liens was also obtained by fraud practiced in the California court by reason that Defendants falsely represented to the California court that Plaintiff's visits to his children, his letters to his children and his attempts to vindicate their federal rights were "activities". It is because of this fraud and only because of this fraud that the order for summary judgment was obtained in California. This court should look well at the true facts as set forth herein and at the law as set forth in this brief and grant summary judgment in favor of this plaintiff. If justice be slow at least let equity and justice prevail in the state of Connecticut.

VI. DEFENDANTS PRETENDED "REGISTRATION" UNDER 28 USC 1963
IS VOID BY REASON THAT THE MANDATE FROM THE COURT OF
APPEAL HAD NOT COME DOWN AT THE TIME OF ATTEMPTED
REGISTRATION

The Defendants do not dispute that Plaintiff had taken an appeal to the 9th C. A. and Petition for Certiorari filed in the U. S. Supreme Court as to the California order upon which their liens are based. In fact copies of pertinent decuments are annexed to the Defendant's motion for summary judgment. However, Defendants are wrong, and clearly wrong by case law in attempting to register and to record judgment liens while any appellate proceedings are pending that might upset the validity of their judgment in California.

"The phrase final by appeal should be given its ordinary, usual meaning.... it may not be registered until after mandate from the appellate court.... And it is the judgment of this court that 28 USC 1963 means the same thing."

The case is still pending until it is disposed of by the appeal and the judgment, in any ordinary sense, cannot be regarded until final until that time."

#### Abegglen v Burnham 94 F Supp 484

In a case this plaintiff took on appeal from the USDC- Conn Tucker v Maher, 405 U. S. 1052, the appeal was upheld by the U. S. Supreme Court on April 17, 1972 yet the case on mandate did not return for hearing before a Three-Judge Federal Court until July 9th, 1973 approx 15 months later. In this action the California court is not expected to have mandate returned on appeal for from three to nine months based on the denial of a Petition For Certiorari by the U. S. Supreme Court on October 9th, 1973. The Defendants pretended registration is ripe to be quashed or stricken from the record.

Respectfully Submitted:

#### UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

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11 STANLEY V. TUCKER,

12 Plaintiff.

13 -VS-

JEAN NEAL, ROBERT R. ANDERSON, 14: and ANDERSON & ANDERSON, etc., 15

Defendants.

Civil Action No. H-8

NOTICE OF MOTION AND MOTION OF DEFENDANTS FOR SUMMARY JUDGMENT UPON COMPLAINT

December 8, 1973

To STANLEY V. TUCKER, plaintiff pro se:

PLEASE TAKE NOTICE that on Monday, December 24, 1973, at 10:00 a.m., or as soon thereafter as the matter can be heard, in the South Courtroom of the above-entitled Court, located at 450 Main Street, Hartford, Connecticut, defendants will move the Court for summary judgment upon plaintiff's complaint.

The motion will be made on the ground that there is no genuine issue as to any material fact having to do with plaintiffs complaint, and that defendants are entitled to judgment thereon as a matter of law.

The motion will be based on this notice, the attached Affidavit of ROBERT R. ANDERSON and Memorandum of Law, and the entire record herein.

> ROBERT R. ANDERSON Defendant Pro Se 621 East Main Street P. O. Box 671

Santa Paula, California 93060

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Pursuant to Local Rule 10(a)3, defendants, moving for summary judgment on the complaint, contend that there is no genuine issue as to any of the following material facts:

- 1. That in NEAL vs TUCKER, U. S. District Court, Northern District of California, No. 71-1447-AJZ, plaintiff STANLEY V. TUCKER (there the defendant) appeared and litigated the question of the court's jurisdiction over his person.
- 2. That the court thereafter rendered summary judgment in favor of defendant JEAN NEAL (there the plaintiff) and against Mr. TUCKER.
  - 3. That no appeal was taken from the judgment per se.
- 4. That Mrs. NEAL's judgment, duly certified for registration in another district, was filed with the clerk of the U.S. District Court for the District of Connecticut on September 5, 1972.

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I, ROBERT R. ANDERSON, being first duly sworn, declare:

I am a California attorney and a member of the law firm of ANDERSON & ANDERSON, with offices at Santa Paula. I represented JEAN NEAL in litigation with plainting resulting in the California federal judgment which, by registration in Connecticut, underlies the liens at issue here. Mrs. NEAL, the law firm, and I are the defendants in this action, and I make this affidavit in support of our motion for summary judgment on Mr. TUCKER's complaint.

#### 1. Mr. TUCKER's "contacts" with the State of California.

I first met Mr. TUCKER in December of 1966 in California, when I undertook to represent his former wife in certain matters subsequent to judgment in their divorce action. From then until July 1969, I saw him in California on at least 50 different occasions, usually in court or nearby. I have given that figure before, and I use it now for consistency, but I suspect it is an underestimate. I have represented defendants in 15 of the 36 actions which Mr. TUCKER, to my knowledge, has filed in the state and federal courts of California. In those endeavors, I have seen him in California courts from Los Angeles to San Jose. I have seen him in court on demurrers and discovery motions. I have seen him in court on motions for security under the California Vexatious Litigant Act, and on motions to dismiss his actions for failure to post the security ordered of him. I have seen him at the home of his children in Ventura, and at my former offices in that city. I have seen him elsewhere in California, on the streets, in restaurants, at motels, and in law libraries. I have seen him in jail. I have seen him at least a score of times on orders to show cause in the divorce action, Tucker vs Tucker, Ventura County Superior Court, No. D 57327, and one such proceeding is presumably

still pending: On July 7, 1969, the court found Mr. TUCKER guilty of 164 counts of contempt, and remanded him to the custody of the sheriff. Sentence was to be imposed on July 11, and in the meantime bail was fixed at \$2,500. On July 9, however, Mr. TUCKER posted the bail and left California. On September 2 the court issued its warrant for Mr. TUCKER's commitment to the Ventura County Jail, and so far as I know that warrant remains outstanding. One of Mr. TUCKER's actions in California was against JEAN

NEAL in the Santa Barbara County Superior Court, No. 74839, for \$215,000. Mrs. NEAL, a widow, was for several years prior to her marriage a stewardess for an international airline, and was based for a time in London, England. In his suit, Mr. TUCKER alleged, i.a., that in the 1950s he had overheard her relate "the misdeeds and immoral and adulterous misconduct of her stewardess associates, giving birth to illegitimate children, contacting diseases and passing them on to their adulterers and to adulterer's children;" from this, he alleged, he had "concluded" that Mrs. NEAL "conducted herself in an immoral and adulterous way similar to her stewardess associates \* \* \* absenting herself from the country for eighteen months during which she could have given birth to and disposed of illegitimate child." The suit was dismissed, and when Mr. TUCKER sued Mrs. NEAL again, this time in Santa Clara County for \$292,000, she consulted me, seeking some means of deterring the persistence of such litigation. On my advice to do so, she sued Mr. TUCKER for malicious prosecution of the Santa Barbara action. I filed the action on her behalf in the Ventura County Superior Court, No. 50686. Mr. TUCKER, without counsel, filed a cross-complaint for \$341,000 and participated personally in all stages of the case, including trial during the last week of April 1969. Judgment was entered for Mrs. NEAL on a jury verdict awarding her \$20,723.61, and it was affirmed on appeal.

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## 2. Mr. TUCKER's litigation of the jurisdictional issue in the California federal action.

In July 1971, I began an action for Mrs. NEAL to establish her state judgment in the U. S. District Court for the Northern District of California, No. 71-1447-AJZ, to obtain a judgment enforceable (following registration) against Mr. TUCKER's assets in Connecticut. I served him with process by sending him a copy of the summons and complaint by certified air mail, return receipt requested. The postal receipt therefor, bearing his signature, was returned to me, and I filed it with the court attached to my affidavit of service. Mr. TUCKER later admitted receipt.

Within the time allowed to respond to the complaint, Mr. TUCKER filed a "special appearance," which stated that it was "made specially and solely for the purpose of pleading to the jurisdiction of the court." Simultaneously, he filed a motion to dismiss the action, asserting among other things a "Lack of 'personal' jurisdiction." When his motion was denied, he filed an answer denying the charging allegations of the complaint and setting up seven affirmative defenses and three counterclaims. He alleged, in part: "Defendant in this action denies that this court has jurisdiction over him." Three of his affirmative defenses likewise disputed the court's jurisdiction in personam. He again challenged the court's jurisdiction over him on Mrs.

NEAL's motion for summary judgment, besides resisting the motion on its merits. The court then entered summary judgment for Mrs.

Certified copies of the following papers are attached to this affidavit and incorporated herein by reference:

Exhibit A - The judgment.

Exhibit B - The clerk's notice of entry of judgment.

Exhibit C - Mr. TUCKER's application for an extension of time to appeal.

Exhibit D - The court's order denying the application. Exhibit E - Mr. TUCKER's notice of appeal from the order. Exhibit F - The order of the Ninth Circuit Court of Appeals, docket No. 72-3197, dismissing Mr. TUCKER's appeal for lack of appellate jurisdiction. Exhibit G - The order of the United States Supreme Court. docket No. 72-1611, denying Mr. TUCKER's petition for certiorari. U.S. , 94 S.Ct. 49. 3. Registration of the judgment in Connecticut. On September 5, 1972, I filed a certification of the judgment with the clerk of this court at New Haven, docket No. 15291. A certified copy of that certification, as filed, is attached hereto as Exhibit H and incorporated herein by reference. SUBSCRIBED and sworn to before me this 3d day of December 1973. /s/ Katharine P. Anderson KATHARINE P. ANDERSON (SEAL) 

#### UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL.

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Plaintiff,

vs.

No. C-71-1447 AJZ

STANLEY V. TUCKER,

Defendant.

#### ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

This cause came on regularly for hearing on May 22, 1972, upon plaintiff's motion for summary judgment, no one appearing! for either party, and the matter being submitted. Upon consideration of the pleadings and affidavits on file, the court concludes that there is no genuine issue as to any material fact herein and that plaintiff is entitled to judgment as a matter of law. Accordingly, the plaintiff's motion for summary judgment is granted.

Based on the foregoing order, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff Jean Neal recover from defendant Stanley V. Tucker the sum of \$20,723.61, with interest of 7 per cent per annum thereon from April 23, 1969 in the further sum of \$4,417.31, for a total judgment of \$25,141.70, and plaintiff's costs.

1 by certify Dated to Only 20,1972 31 the presinct on file in my office. THE I THERE

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-8- of Motion

#### UNITED STATES DISTRICT COURT

#### FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL

STANLEY V. TUCKER

NO. C-71-1447 AJZ

NOTICE

Anderson & Anderson TO Stanley V. Tucker

YOU ARE HEREBY NOTIFIED that on July 21, 1972

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a Summary Judgment was entered in the above entitled case

San Francisco, California

July 24 trauer is a run and correct copy

the original on tile in my office. ATPEAT:

" ... TUCK I. "LEER"

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F.R.PETTIGREW 

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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL,

Plaintiff.

No C-71-1447 AJZ

vs.

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APPLICATION FOR EXTENSION OF TIME TO FILE NOTICE OF APPEAL

STANLEY V. TUCKER,

Defendant.

Pursuant to FRAP Rule 4 (a) Defendant applies for a (30) day extension of time within which to file his notice of appeal from judgment rendered herein July 20, 1972 and for good cause alleges as follows:

- 1. This instant action is one of three brought by Plaintiff, her relatives and attorneys as an outgrowth of malicious divorce oriented harassment that has continued over ten years.
- 2. One of the other cases has gone to the 9th Circuit Court on appeal where extensive research was required to properly brief major issues namely the applicability of the "long arm" statute of California vs the limitations of the Due Process Clause of the UNITED STATES CONSTITUTION and further the invalidity of the state court judgments as being violative of Defendant's minimum federally guaranteed rights to due process and equal protection of the laws.
- 3. The issues in this instant action are similar if not in some respects identical to the action on appeal to the 9th C. A.

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EXHIBIT C

-10- of Motion

- 4. That a major victim of the divorce oriented harassment against Defendant carried out by Plaintiff, ner relatives and her attorneys has been Defendant's 21 year old.son, a long haired drop out from two colleges, a consciencious objector who appears often motivated by irrational fears Defendant believes in part acquired from his mother and in part due to long term exposure to harassment of his Father (Defendant) by his mothers seeking to arrest and prosecute his Father (Defendant) on trivialities, all arrests ending in dismissals, plus further long term exposure to court harrassment.
- 5. During August 1972 Robert and his friend, Dave, came to Connecticut working under supervision and in custody of Defendant herein to earn money to go to college, Defendant having his son here for the short span of less than a month, one of few occasions since divorce proceedings started in Los Angeles in 1958 was heavily pre-occupied with college enrollment of his son, his daily care, work, supervision, etc., work often involved travelling daily a distance of 45 miles more or less.
- 6. As a result of pre-occupaion with care, custody, education of his son Defendant missed getting a notice of appeal in within time proscribed by Rule 4 (a) FRAP.
- 7. Defendant believes his time spent on and with his son worth while as son is now enrolled in two courses at Virginia Commonwealth Institute and plans to take full time courses in January 1973.

FOR SOOD AND SUFFICIENT REASONS SET FORTH ABOVE DEFENDANT PRAYS THAT THIS COURT MAKE ITS ORDER GRANTING ADDITIONAL 30 DAYS WITHIN WHICH TO FILE NOTICE OF Dated: September 13, 1972 By

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Note: Defendant has tendered along with this application a notice of appeal to be filed by the Clerk upon approval by the Court of this Application. Certificate of Service By Mail I, STANLEY V. TUCKER, Herey cortify that I served the within Application For Extension of Time To File Notice of Appeal upon Plaintiff by depositying a true copy thereof in the UNITED STATES mails at Hartford, Conn postpaid air mail, addressed to Plaintiff, mailing done September 13, 1972, addressed as follows: Anderson & Anderson 621 E. Main Street Santa Paula, California 93060 Sept 13, 1972 ORDER OF THE COURT Upon reading of the foregoing and good cause therein app appearing it is hereby ordered that time be extended an addition 30 days during which Defendant may file his notice of appeal, said extension to run to and including September 19, 1972 Dated: By The Court

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CLERK, U. S. DIST. COURT SAN FRANCISCO

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 JEAN NEAL.

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Plaintiff,

12 vs.

STANLEY V. TUCKER,

Defendant.

No. C-71-1447 AJZ

ORDER DENYING APPLICATION FOR EXTENSION OF TIME TO FILE NOTICE OF APPEAL

The application for extension of time to file notice of appeal in the above entitled matter is DENIED.

Dated: October 20, 1972

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ALFONSO J. ZIRPOLI United States District Judge

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FILLED NOV 3 1972 6 CHARLES J. ULFERS, CLERK 7 UNITED STATES DISTRICT COURT 8 FOR THE NORTHERN DISTRICT OF CALIFORNIA 9 10 JEAN NEAL. C 71-1447 AJZ NO Plaintiff. 11 NOTICE OF APPEAL VS. 12 and STANLEY V. TUCKER, 13 DESIGNATION OF RECORD ON APPEAL Defendant. 14 15 NOTICE is given that STANLEY V. TUCKER, DEFENDANT, 16 herein, hereby appeals to the UNITED STATES CIRCUIT COURT 17 OF APPEAL FOR THE NINETH CIRCUIT from the order made and/ 18 or entered herein on or about October 20, 1972 denying 19 Defendant's Application For Extension of Time to file notice 20 of Appeal. 21 22 October 30th, 1972 Dated: 23 24 Pursuant to FRAP Rule 10 (b) APPELLANT/DEFENDANT hereby 25 designates the entire record on file including all applications 26 or notices as the record on appeal in the instant action. 27 Dated: October 30th, 1972 23 I, STANLEY V. TUCKER, APPELLANT HEREIN, hereby certify that I 29 served the above document upon Plaintiff on October 30, 1972 by depositing a true copy thereof in the U. S. mails at 30 h. m. .. (uf .. " Hartford, Conn postpaid air mail and addressed to Plaintiff mee: 1: 31 de imas follows: Anderson & Anderson 621 E. Main St. Santa Paula, California

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Cali Ded: Oct 30th, 1972

FILED UNITED STATES COURT OF APPEALS DENNIS R. MATHEMS, CLERK U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT JEAN NEAL, Plaintiff - Appellee, vs. No. 72-3197 STANLEY V. TUCKER. Defendant - Appellant. ORDER Before: TRASK and CHOY, Circuit Judges. Appellee's motion to dismiss appeal for lack of jurisdiction is granted, and the appeal herein is dismissed.

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# Supreme Court of the United States

No. 72-1611

STANLEY V. TUCKER,

Petitioner,

JEAN NEAL

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth ------ Circuit.

On Consideration of the petition for a writ of certiorari herein to the United States Count of Appeals for the Ninth ----- Circuit, it is ordered by this Court that the said petition be, and the same is hereby, denied.

October 9, 1973

A true copy MISHAIL ROBAK, JR.

First:

Clork of the Supreme Effet of the United States

DY Deputy

JUL 21 1972 3 d'unent is a true and correct copy of " critical on file in my office. ATTEST: 4 CLERK, U. S. DIST. COURT F E. PUTTIGREW. Clark, U. S Firtnet Conyt SAN FRANCISCO 5 Northern Interice of C G - AUG 23 15291 7 8 UNITED STATES DISTRICT COURT 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA 10 JEAN NEAL, 11 Plaintiff. 12 No. C-71-1447 AJZ V9. 13 STANLEY V. TUCKER, 3.4 Defendant. 1.5 ORDER GRANTING PLAINTIFF'S MOTION 16 FOR SUMMARY JUDGMENT 17 This cause came on regularly for hearing on May 22, 1972, 18 upon plaintiff's motion for summary judgment, no one appearing 19 for either party, and the matter being submitted. Upon con-20 sideration of the pleadings and affidavits on file, the court 21 concludes that there is no genuine issue as to any material 22 fact herein and that plaintiff is entitled to judgment as a 23 matter of law. Accordingly, the plaintiff's motion for 24 summary judgment is granted. 25 Based on the foregoing order, IT IS HEREBY ORDERED, 26 ADJUDGED AND DECREED that plaintiff Jean Neal recover from 27 defendant Stanley V. Tucker the sum of \$20,723.61, with inter-28 est of 7 per cent per angum thereon from April 23, 1969 in 29 the further sum of \$4,417.31, for a total judgment of 30 \$25,141.70, and plaintiff's costs. 31. Dated: July 20,1972 32 ALFONSO J. ZIRPOLI United States District Judge

# United States District Court

#### FOR THE

NORTHERN DISTRICT OF CALIFORNIA	
CIVIL ACTION FILE NO. C-71-1447 AJZ	
JEAN NEAL, Plaintiff	
JUDGMENT	
STANLEY V. TUCKER, Defendant	Ser 5
CERTIFICATION OF JUDGMENT FOR REGISTRATION IN ANOTHER DISTRICT	8 25
I, F. R. PETTIGREW , Clerk of the United States District Court &	=
he Northern District of California	22,
to hereby certify the annexed to be a true and correct copy of the original judgment entered in the above entitled action on July 21, 1972, as it appears of record in my office, and that no notice of appeal from the said judgment has been filed in my office and the time to appeal commenced to run on on July 21, 1972, upon the entry of the judgment.	
IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of the said	

Court this 28 day of August

CLCL Deputy Clerk FLARRY R. OLIVER

. When no notice of appeal from the judgment has been filed, insert "no notice of appeal from the said judgment has been filed in my office and the time for appeal commenced to run on [insert date] upon the entry of [If no motion of the character described in Rule 73(a) F.R.C.P. was filed, here insert 'the judgment', otherwise describe the nature of the order from the entry of which time for appeal is computed under that rule.] If an appeal was taken, insert "a notice of appeal from the said judgment was filed in my office on [insert date] and the judgment was affirmed by mandate of the Court of Appeals issued [insert date]" or "a notice of appeal from the said judgment was filed in my office on [insert date] and the appeal was dismissed by the [insert 'Court of Appeals' or 'District Court'] on [insert dute]", as the case may be.

-18- of Motion

EXHIBIT H

United Otates of America

ss: New Haven

DISTRICT OF COMMECTICUT

I,Sylvester A. Markowski

, Clerk of the United States District Court

for the

District ofConnecticut , do hereby certify that the annexed

and foregoing is a true and full copy of the original "Certification of Judgment for Registration in Another District" and Copy of Certified Copy of Order Granting Plaintiff's Motion for Suzzary Judgment " filed in the Matter of:

Civil No. 15291 Jean Neel v Stanley Tucker

now remaining among the records of the said Court in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the scal of the aforesaid Court at New Haven

this 1st

day of August

, A. D. 19 73

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Deputy Clerk.

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Mr. TUCKER's original complaint sought \$200,000 damages and the release of nine judgment liens that he alleged were "false and fraudulent" because not founded upon litigation conducted in Connecticut. The complaint was apparently conceived without knowledge of the registrability of federal judgments, 28 USC § 1963, and Mr. TUCKER accordingly amended his complaint to attack the judgment at its source, the U. S. District Court for the Northern District of California. The amendment, adding a second count to the complaint, recognizes the fact of the judgment but denies its validity on the ground that the California\* court allegedly lacked personal jurisdiction over Mr. TUCKER, a non-resident served with process under the California long-arm statute, Calif Code Civ Proc §§ 410.10, 415.40. It demands nullification of all 14 recorded liens of the registered judgment, and damages of \$500,000.

The complaint as amended is in two counts. The first count plainly misses the mark: It alleges that the lawsuit was not maintained in Connecticut, which defendants concede as irrelevant, and it ignores the judgment by registration, on which the judgment liens depend. That leaves the second count, which is reducible to one pivotal allegation: That the California judgment "is null and void as made without due process and in violation of Plaintiff's fundamental federally guaranteed rights by reason that the United States District Court - Northern District of California did not have jurisdiction over Plaintiff by reason Plaintiff did not have the necessary minimum activities within the State of California."

That proposition presents the sole issue on this motion, for if -J 20-the court in California had jurisdiction over plaintiff beyond a

genuine issue as to any material fact in this case, then plaintiff's collateral attack on the judgment must fail, and defendants are entitled to summary judgment on his complaint. Rule 56(b), FRCivP.

The California court's jurisdiction in personam can be established on two independent grounds: (1) Mr. TUCKER's "contacts" with the State of California. (2) Res judicata. Defendants rely on the accompanying affidavit of ROBERT R. ANDERSON ("affidavit") and on plaintiff's admission of the facts set forth in requests therefor filed in this action on July 20 and October 25, 1973 (cited as "Req.Adm.," with filing date and admission number).

II

Mr. TUCKER was served with process in the California action under that state's long-arm statute, applicable in the federal courts there by virtue of Rule 4(e), FRCivP. The sufficiency of such service is unquestionable as a means of notice, and Mr. TUCKER, who actually received, personally signed for, and promptly acted upon the writ, correctly pleads no issue of it. But the court thereby acquired personal jurisdiction over Mr. TUCKER only if maintenance of the suit in California would "not offend 'traditional notions of fair play and substantial justice.'" International Shoe Co. vs State of Washington (1945), 326 US 310, 316, 66 SCt 154, 90 L ed 95, 161 ALR 257. By the rules developed in that and subsequent constitutional decisions of the Supreme Court, the present question turns on the nature and extent of Mr. TUCKER's "contacts" with the State of California and their relationship with Mrs. NEAL's cause of action. No more than a single transaction or isolated act within the forum state is required to empower the court to exercise jurisdiction over a nonresident, where the act, such as a tort, gives rise to the

(1957), 355 US 220, 78 SCt 199, 2 L ed 2d 223; Rosenblatt vs
American Cyanamid Co. (1965), 86 SCt 1, 15 L ed 2d 39; see
annotations, 24 ALR3d 532, 78 ALR2d 397. "A state has power to
exercise judicial jurisdiction over an individual who has done,
or has caused to be done, an act in the state with respect to any
cause of action in tort arising from the act." Rest., Conflict of
Laws 2d (1969), § 36(1). This court's own jurisdiction over
defendants, all of whom are inhabitants of California and not
shown ever to have been in Connecticut, is based upon the fact
that they recorded the disputed liens there—an alleged tort.

Even disregarding Mr. TUCKER's ordinary comings and goings in California, and overlooking the sheer amount of time he spent there, and ignoring, as well, all but one of his 36 civil actions in its courts, that one action was a malicious prosecution of Mrs. NEAL. Moreover, the tort was subsequently adjudicated in a California state court, with Mr. TUCKER present and taking part, and in fact demanding affirmative relief of \$341,000. Those proceedings were intimately connected with the ensuing action in the federal court whose jurisdiction Mr. TUCKER denies, for the judgment recovered in the state court was Mrs. NEAL's claim for relief in the district court.

In Hanson vs Denckla (1958), 357 US 235, 253, 78 SCt 1228, 2 L ed 2d 1283, the Supreme Court refined the "minimum contacts" doctrine, saying: "[I]t is essential in each case that there be some act by which the defendant purposefully availed himself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." The Court could not have described more felicitously the rationale by which Mr. TUCKER was held amenable to suit in California. Thirty-six times he had sued in the courts of the state, on each occasion invoking the benefits and protections of its laws. Any -J 22- argument (highly predictable) that his lawsuits were "federally

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protected," and thus clothed him with immunity, cannot avail him.

No such liberty was accorded the <u>New York Post</u> in its dissemination of the news in Connecticut. Buckley vs New York Post Corp. (2d Cir 1967), 373 F2d 175, 20 ALR2d 942.

At the time in question, Mr. TUCKER had already demonstrated a frenzied affinity for litigation in California. Moral: It is not unfair to require a man to litigate once more in a forum which has suited his convenience so often before.

III

Mr. TUCKER did not ignore the California action. He diligently filed a "special appearance" and motion to dismiss, contesting the court's jurisdiction over him. He made the same point in answer to the complaint, and again in opposition to Mrs. NEAL's motion for summary judgment. He was persistent and explicit. (Affidavit; Req.Adm., 10/25/73, Nos. 1-8.) He litigated the issue, and it was decided against him. The jurisdiction of the California court was thereby established as a matter of res judicata, and the ruling is not open to reconsideration.

Controlling authority is found in Baldwin vs Iowa State
Traveling Men's Ass'n (1931), 283 US 522, 51 SCt 517, 75 L ed
1244. An earlier suit of Baldwin's in a state court had been removed
to the U. S. District Court for Western Missouri, where the
defendant association appeared specially and moved to dismiss for
lack of personal jurisdiction. The motion was overruled, and
when the association declined to plead further, Baldwin took
judgment. The association did not appeal. Baldwin then sued
the association on the Missouri judgment in the District Court for
Southern Iowa, and the association tendered the same defense it
had made before: That it was an Iowa corporation, had never been
in Missouri, and the person served with process there was not its

matters was inadmissible as a forbidden collateral attack on the Missouri judgment. The court ruled otherwise, and judgment for the association was affirmed by the court of appeals, 40 F2d 357. On certiorari, the Supreme Court reversed:

"The substantial matter for determination is whether the judgment amounts to res judicata on the question of the jurisdiction of the court which rendered it over the person of the respondent. \* \* \* It is of no moment that the appearance was a special one expressly saving any submission to such jurisdiction. That fact would be important upon appeal from the judgment, and would save the question \* \* \* even though \* \* respondent had proceeded \* \* \* to a trial on the merits. [Citations omitted.] \* \* \*

"Public policy dictates that there be an end to litigation; that those who have contested an issue shall be bound by the result of the contest; and that matters once tried shall be considered forever settled as between the parties. We see no reason why this doctrine should not apply in every case where one voluntarily appears, presents his case and is fully heard, and why he should not, in the absence of fraud, be thereafter concluded by the judgment of the tribunal to which he has submitted his cause." 283 US, at 524-526, 51 SCt, at 517-518 (Emphasis added).

To the contention of the association that it was entitled to the defense of lack of jurisdiction as a matter of due process, the Court replied that "there is involved in that doctrine no right to litigate the same question twice." 283 US, at 524, 51 SCt, at 517. Mr. TUCKER's position here is indistinguishable from that of the association in Baldwin. —J 24—

The Supreme Court has since applied <u>Baldwin</u> with approval to the issue of subject matter jurisdiction. Durfee vs Duke (1963), 375 US 106, 84 SCt 242, 11 L ed 2d 186. The Court said:

"\*\*\* [A] judgment is entitled to full faith and credit—even as to questions of jurisdiction—when the second court's inquiry discloses that those questions have been fully and fairly litigated and finally decided in the court which rendered the original judgment.

"With respect to questions of jurisdiction over the person [fn omitted], this principle was unambiguously established in Baldwin vs Iowa State Traveling Men's Ass'n \* \* \*

"This doctrine of jurisdictional finality was applied even more unequivocally in Treinies [vs Sunshine Mining Co., 308 US 66, 60 SCt 44, 84 L ed 85] \* \* \*. In Treinies, the rule was succinctly stated: 'One trial of an issue is enough. "The principles of res judicata apply to issues of jurisdiction as well as to other issues," as well to jurisdiction of the subject matter as of the parties.' 308 U.S., at 78, 60 S.Ct., at 51, 84 L.Ed., at 85.

"The reasons for such a rule are apparent. In the words of the court's opinion in Stoll v. Gottlied [305 US 165, 59 SCt 134, 83 L ed 104], '\* \* \* It is just as important that there should be a place to end as that there should be a place to begin litigation. After a party has his day in court, with opportunity to present his evidence and his view of the law, a collateral attack upon the decision as to jurisdiction - J 25- the rendered merely retries the issue previously

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determined. There is no reason to expect that the second decision will be more satisfactory than the first." 375 US, at 112 84 SCt, at 246.

#### IV

The California judgment, entered July 21, 1972, was never The point is underscored to dispel some of Mr. TUCKER's appealed. more obscure and misleading assertions. For example, in his motion for preliminary injunction, filed July 6, 1973, he represented to this court as follows (p. 2, para. 4): "The Defendant's pretended and purported liens is based on a preliminary order in the District Court of San Francisco [sic] which has been appealed to the Ninth Circuit Court of Appeals and that a Petition for a Writ of Certiorari (see Ex A) was filed in the United States Supreme Court on May 31, 1973, as No 72-1611." In an undated reply brief on the same motion, he wrote (p. 1): "Defendant's pretended judgment is not final in that it is still subject to reversal after present court proceedings underway in the UNITED STATES SUPREME COURT are completed." In his answers of October 22, 1973, to defendants' interrogatories, he stated (No. 15a): "Defendant's purported judgment was not a final judgment by reason of appeal pending from the California order."

The facts are these: After judgment in California, it was not until September 25, 1972, that Mr. TUCKER filed an application for an extension of time to appeal. (Affidavit, Ex. C; Req.Adm., 10/25/73, No. 10.) Since the application came 66 days after entry of judgment, the relief sought was beyond the discretion of the district court. Rule 4(a), FRAppP; Pasquale vs Finch (1st Cir 1969), 418 F2d 627, 629; Alexander vs Sacha (9th Cir 1971), 439 F2d 743. The district court, having no power to do otherwise, denied the application on October 20, 1972. (Affidavit, Ex. D; Req.Adm., -J 26-7/20/73, No. 8.) It was expressly from that order that Mr. TUCKER

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appealed. (Affidavit, Ex. E; Req.Adm., 7/20/73, Nos. 9-10.) Manifestly, since the district court had had no jurisdiction to grant Mr. TUCKER's untimely application, the appeal presented nothing for review; that is, the district court's order was irreversible, hence nonappealable. Perceiving this, the Ninth Circuit Court of Appeals dismissed the appeal for lack of jurisdiction. (Affidavit, Ex. F; Req.Adm., 7/20/73, No. 12.) From that dismissal, Mr. TUCKER petitioned the Supreme Court for certiorari, and was turned away on the first decision-day of the current term. \_\_\_ US \_\_\_, 94 SCt 49. (Affidavit, Ex. G.)

Thus it was that when, on August 28, 1972, the California clerk issued his "Certification of Judgment for Registration in Another District," he properly recited therein "that no notice of appeal from the said judgment has been filed in my office and the time for appeal commenced to run on July 21, 1972." (Affidavit, Ex. H.) The judgment was then final on appeal, and would continue to be unless opened by the court which rendered it, or by a higher court on direct review. Mr. TUCKER has since exhausted his direct remedy without success, and the judgment, final 30 days after entry, has remained so, undisturbed by any court competent to inquire into it. Mr. TUCKER is therefore quite correct in his admission: "No appeal has ever been taken from the summary judgment." (Req.Adm., 7/20/73, No. 13.)

#### CONCLUSION

Mr. TUCKER's complaint stands or falls with his collateral attack upon the judgment of the California federal court. Accordingly, it must fall. Defendants have set forth some highlights of Mr. TUCKER's campaign of litigation in the courts of California and its direct lineal relationship to Mrs. NEAL's judgment against him. But that is prologue: It serves only to inform, and is technically irrelevant, for Mr. TUCKER is

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collaterally estopped to dispute the ultimate fact of jurisdiction. Thus, there can be no genuine issue of fact in this case as to jurisdiction of the California court, for that court itself, with the parties before it, contesting the issue, determined the matter once and for all.

Nor is there any genuine issue as to Mrs. NEAL's right to register the judgment in Connecticut when she did, or as to the fact that registration occurred, or as to the sufficiency of registration to support the liens. The California judgment became final by lapse of time. On Mr. TUCKER's later appeal from a postjudgment order, he would not have been permitted to impugn the judgment itself. Loeber vs Schroeder (1893), 149 US 580, 13 SCt 934, 37 L ed 856. The judgment, duly certified for registation, was filed with the clerk of the District of Connecticut on September 5, 1972. There was nothing more Mrs. NEAL could do to register the judgment, and her subsequent judgment liens refer to a judgment of that date. Mr. TUCKER has quibbled that the Connecticut clerk failed to "enter" the judgment until September 9 - four days after filing. Let anyone claiming an intervening interest in the property make an issue of it. Mr. TUCKER cannot, nor can he make any genuine issue in the case whatsoever.

For the reasons given, defendants respectfully request the court to grant them summary judgment upon plaintiff's complaint. Rule 56(b), FRCivP.

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Respectfully submitted,

/s/ Robert R. Anderson ROBERT R. ANDERSON

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Plaintiff.

C. A. No H-8

-vs-

JEAN NEAL, ET AL.

PLAINTIFF'S AFFIDAVIT AND BRIEF IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT BY DEFENDANTS

Defendants.

Pursuant to FRCP Rule 56 Plaintiff hereby files and serves his opposition to Motion For Summary Judgment by Defendants:

- A. Opposing Affidavit: The Plaintiff incorporates herein verbatim in opposition to motion by Defendants his affidavit on file herein and annexed (page 4 ) to Plaintiff's Motion For Summary Judgment.
- B. Opposing Brief : The Plaintiff incorporates herein verbatim in opposition to motion by Defendants his Brief on file herein and annexed (pages 5 - 15) to Plaintiff's Motion For Summary Judgment.
- C. Supplemental Brief: Annexed hereto in opposition to motion by Defendants is the Plaintiff's Supplemental Brief oriented to deficiencies in Defendant's Motion For Summary Judgment!

By\_ STANLEY V. TUCKER

### Gertificate of Service By Mail

I, STANLEY V. TUC KER, hereby certify that on the December 1973 I served the above opposition to Defendant's motion for summary judgment by mailing a copy to the defendants herein postage prepaid air mail addressed:

JEAN NELL ROBERT R. ANDRRSON 621 E. Main 621 E. Main Danta Paula, Calif Santa Paula, Calif Santa Paula, Calif

ANDERSON & ANDERSON

PLAINTIFF'S SUPLEMENTAL BRIEF IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT BY DEFENDANTS.

- I. DEFENDANT'S AFFIDAVIT VIOLATES RULE 56 FRCP AND THEMOTION SHOULD BE DENIED.
- A. Anderson's Affidavit Is Mostly Hearsay, Lacks Personal Knowlege and is Inadmissible as Evidence

In this action Robert R. Anderson, admitted an attorney in California and appearing herein pro se purports to file a motion for summary judgment under Rule 56 on behalf of all defendants. Yet the fatal defect in his affidavit is that it fails to show the type of personal knowledge and to demonstrate facts admissible as evidence thus violating Rule 56.

At best Anderson proclaims he was attorney with offices in California and a defendant in this action. From this limited basis, woefully inadequate under Rule 56, he goes on to recite in his "affidavit?" a series of allegations most of which he gleaned from court files, or from the clerk of the court or from the U. S. mails. His allegations are the rankest hearsay and not admissible in any court of the land. At most he factually appeared to have seen this Plaintiff in California and this fact alone means nothing to the issues or merits of this action.

Prior courts have considered and rejected <u>hearsay</u>

<u>affidavits</u> by counsel gleaned from their clients or from court files.

"The concluding paragraph of the affidavit discloses its source and the nature in the following words:

The facts get out in this affidavit are taken from the records of the Veterans Administration.... The file is available to the court for verification...."

Necessarily, therefore the affidavit abounds in secondary statement gleaned from written material, hears and factual and legal conclusions. This court holds that it does not rise to the dignity of evience and specifically of rule 56 (e)"

# Welcher v U. S. 14 F R D at 239

The raw impropriety of Attorney Anderson preparing his own affidavit on behalf of other defendants, obviously his clients, is treated in <u>Welcher</u>, supra.

The Court P 238:

"The writer of this memorandum is not disposed to encourage counsel in actions pending before this court to offer themselves as witnesses touching matters essential to the issues. That practice too easily proceeds toward the perversion of the attorney's role."

II. ATTORNEY ANDERSON'S PRO SE MOTION ON BEHALF OF ALL DEFENDANTS VIOLATES LOCAL RULE 2 (e) AND SHOULD BE

There is no doubt but that Attorney Anderson in filing his motion for all defendants is appearing as their attorney and they are his clients. Yet this practice is forbidden by local Rule 2 (e). A local member of the bar must be designated or alternately a local address maintained or alternately the clerk must be designated to accept service of papers. All of the above must be on record.

YET NONE OF THE ABOVE IS ON RECORD.

May this Honorable Court exercise its discretion and deny the motion of defendants and further chastize or discipline Attorney Anderson as seems most appro priate under local practice.

# UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

STANLEY V. TUCKER,

Plaintiff,

Civil Action No. H-8

DEFENDANTS' BRIEF IN OPPOSITION
TO PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT

Defendants.

January 9, 1974

Defendants oppose Mr. TUCKER's motion for summary judgment on his complaint by adopting their own motion for such relief, filed December 12, 1973, and by adding the arguments which follow. (Bracketed numerals refer to supporting pages of defendants' motion; references to "motion" are to that of plaintiff.)

I

Mr. TUCKER contends that the California court entered judgment against him without ever ruling on his objection to its jurisdiction in personam, and that he is accordingly free to attack the judgment collaterally in this court. He says this conclusion is subject to no genuine issue of fact. ("Fact" No. 13 of statement under Local Rule 10(a)3, motion, p. 3) He makes the point variously. He hedges in his affidavit, saying only that he had "never received or seen" any such ruling. (Motion, p.4)

In his brief, however, he is unequivocal: "The California court, USDC - NC [sic] of California, that granted the summary judgment at issue herein has never ruled or issued any order or memorandum" as to its jurisdiction. (Motion, p. 5, "FACTUAL BACKGROUND") He elaborates somewhat elsewhere in the brief: "In this action the California court has never issued a memorandum or order regarding Plaintiff's defenses or contentions made herein as to lack of jurisdiction in the California court. This is substantiated by this file being barren of such an order \* \* \*." (Motion, pp. 13-14) Later he charges defendants with fraud in their averment that the jurisdictional issue was decided by the California court, "yet failed to shown [sic] any order or memorandum resolving the issues raised by Plaintiff." (Motion, p. 14)

By defendants' undenied account and Mr. TUCKER's admissions of record herein, it is agreed that he made his objection to jurisdiction by motion to dismiss and at every other opportunity. [6-7, 23] Did the California court, as Mr. TUCKER contends, actually ignore his motion to dismiss and heedlessly grant summary judgment without a thought for its jurisdiction to do so? No, it did not. As a matter of law, it ruled by necessary implication in the judgment itself. Fayerweather vs Ritch, 195 US 276, 25 SCt 58, 49 L ed 193; Huntley vs Holt, 59 Conn 102, 22 A 34. No specific finding is required. Nelson vs Swing-A-Way Mfg. Co. (8th Cir), 266 F2d 184.

As a matter of fact, however, the California court left nothing to implication. By a request for admissions filed herein on October 25, 1973, defendants asked Mr. TUCKER to admit the following concerning the California action: "3. That Exhibit B attached hereto is a true copy of the order of November 16, 1971, denying your motion to dismiss." The order reads in part:

"Defendant [Mr. TUCKER] has moved to dismiss on the grounds that the court lacks jurisdiction, that service of process was

irregular, and that venue is improper. [¶] The court concludes that it has jurisdiction, that service of process was made in conformity with the federal rules, and that venue is proper. [¶] THEREFORE IT IS HEREBY ORDERED that defendant's motion to dismiss is denied." Mr. TUCKER stood mute in response to defendants' request, and the admission which he thereby made is conclusive of the fact that the California court determined, for good and all, Mr. TUCKER's challenge to its jurisdiction.

II

If the matter were not thus settled, as res judicata, this court could assess Mr. TUCKER's activities in California as a basis for that state's exercise of jurisdiction over him. Upon those facts the parties differ mainly in Mr. TUCKER's heightened resort to euphemism. He refers to his sojourns in California over a span of eight years in the singular, as a "sole activity," which he characterizes loftily as "the random exercise of first amendment freedoms," or offhandedly as "vacation" and "traveling across state lines." His lawsuits in California are extolled as attempts "to vindicate \* \* \* federally guaranteed rights by litigation." (Motion, p. 4) His abstractions, however, do not traverse the facts detailed in the motion of defendants. [4-5] He denies nothing, but tries instead to block the admission of defendants' evidence as the "rankest hearsay." The personal involvement and observations of defendants' affiant are plain upon the face of his affidavit.

As for Mr. TUCKER's enunciation of the law, his brief on the constitutional limitations of extraterritorial jurisdiction is a catalog of cases considerably out of point, mostly having to do with the amenability of foreign corporations doing business through agents. He lays particular stress on Ratliff vs Cooper Laboratories, Inc. (4th Cir), 444 F2d 745; Titus vs Superior Court

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1 23 Cal App 3d 792, 100 Cal Rptr 477; and Collar vs Peninsular Gas Co. (Mo), 295 SW2d 88. Ratliff is cited because the Supreme Court 2 denied certiorari, although the case bears no similarity to ours. 3 4 (Motion, p. 10) It presents an example of blatant forum-shopping, 5 in which residents of Indiana and Florida, whose causes of action 6 arose in those states but were barred by lapse of time, chose to 7 bring their suit against the foreign corporate defendant in a 8 court of South Carolina, for the unconcealed purpose of taking 9 advantage of that state's six-year statute of limitation. Mr. TUCKER hails Titus as "a most noteworthy case applicable to facts herein." (Motion, p. 11) The allure of the case is apparently the court's use of the term "legalistic" to describe the contacts of the nonresident Mr. Titus with the California forum. To Mr. TUCKER that means you can sue to your heart's content in the courts of a state, maliciously or not, without thereby becoming suable in return. But what the court meant was that Mr. Titus's relationship with California existed only in contemplation of law, i.e., it was fictional, for Mr. Titus, distinctly unlike Mr. TUCKER, had never been to California, much less had he ever maliciously prosecuted anyone there, and the suit against him was not upon a cause of action originating there. Finally, we are told that Collar is "The leading case exploring in light of International Shoe, supra, the jurisdictional contentions based on malicious prosecution and on litigation in general and rejecting such a claim \* \* \*." (Motion, p. 12) Mr. TUCKER does not tell everything he knows. The action was for malicious prosecution within the state by the nonresident defendant, but the case makes no mention of a local tort as a jurisdictional basis. The Missouri court considered only whether malicious prosecution constituted "doing business," and held that it did not. That may have been the law of Missouri, but is of no 31 interest here, and, anyway, has since been changed by statute. 32 V A M S, § 351.630(2) (1962 Supp). Moreover, one would reasonably

expect a "leading case" to be followed in other cases. But when later cited to the Eighth Circuit Court of Appeals, Collar was politely disapproved. Jennings vs McCall Corporation, 320 F2d 64. "Subsequent events," said a tactful court, "strongly indicate a local recognition that the Collar case does not rest upon unalterable constitutional principles." (320 F2d at 70)

#### III

Mr. TUCKER rgues that the California long-arm statute under which he was served with process, California Code of Civil Procedure, sections 410.10 and 415.40, was improperly applied "retroactively." (Motion, p. 5) The statute took effect July 1, 1970. Calif Stats, 1969, ch 1610, § 30(a). The action against Mr. TUCKER was not begun for more than a year after that. [6]

#### IV

Mr. TUCKER also asserts, without cited authority, that the exercise of long-arm jurisdiction over him by the California court was barred by the statute of limitation. He quotes Connecticut and California statutes limiting actions in tort. (Motion, p. 13)

The Constitution does not require any limitations at all in ordinary actions. See Campbell vs Holt, 115 US 620, 6 SCt 209, 29 L ed 483. In diversity cases, the federal courts will apply the limitations of state law. Ragan vs Merchants Transfer & Warehouse Co., 337 US 530, 69 SCt 1233, 93 L ed 1520. In California, limitations act solely upon the right to bring an action. Calif Code Civ Proc, § 312. A timely action must then be prosecuted by service of summons within three years. Id., § 581a(a) Mrs. NEAL's cause of action against Mr. TUCKER for malicious prosecution was reduced to judgment following a trial on the merits in April 1969. [5] Under familiar principles of merger,

the judgment replaced the cause of action as her substantive right, subject to a new 10-year statute. Id., § 337.5 subd 3. Clearly Mrs. NEAL's California federal action was not barred by expiration of time, nor did she fail to prosecute it diligently by prompt service of process.

V

California judgment was on appeal, hence not final, when it was registered in Connecticut and the judgment liens recorded. (Motion p. 15) Defendants' motion for summary judgment quotes earlier instances of the same assertion by Mr. TUCKER, and exposes it as deception. [26-27] Defendants demonstrate that there never was an appeal from the California judgment, and Mr. TUCKER has admitted the fact in this case. Only after the judgment was final by lapse of time and registered in this court [18] did Mr. TUCKER begin a tardy effort to appeal late [10-12]. What he ultimately purported to take on appeal was not the judgment at all, but a postjudgment order, and he failed to get even the order reviewed by either the Ninth Circuit Court of Appeals or the United States Supreme Court. [13-16]

Mr. TUCKER's hypothesis, in its full bloom, is that a judgment is never final. Thus, suppose that Mrs. NEAL's judgment had not been registered in Connecticut until today, long after the Supreme Court had denied Mr. TUCKER's petition for certiorari. What would keep Mr. TUCKER, tomorrow, from asking the district court in California to set the judgment aside on, say, astrological grounds? And when the court turned him down, what would prevent him from "appealing" the order to the Ninth Circuit? And when the court of appeals dismissed his appeal for lack of jurisdiction could he not petition the Supreme Court for certiorari? And upon denial of his petition for certiorari, could he not contend, as

he does here, that in getting himself thrown out of the higher courts he had somehow enmeshed the judgment itself in an "appeal" and rendered it, <u>nunc pro tunc</u>, unfinal? And would he not then sue defendants for registering the judgment <u>today</u>? He would indeed, for that is his view of the law. Defendants' remedy in such a case would be, as in this case, summary judgment.

Respectfully submitted,

ROBERT R. ANDERSON

Defendant Pro Se 621 East Main Street

P. O. Box 671

Santa Paula, California 93060

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## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONN.

STANLEY V. TUCKER,

C. A. No H-8

Plaintiff

NOTICE OF MOTION FOR DISCHARGE OF EXCESSIV. JUDGMENT LIENS, MOTION

-vs-

AND SUPPORTING BRIEF,

JEAN NEAL, ET AL.

AND SUPPORTING AFFIDAVIT.

Defendants.

To DEFENDANTS HEREIN: PLEASE THAT NOTICE that on Monday January 7th, 1974 at 10:00 am or as soon thereafter as matter can be heard in the South Courtroom of the above-entitled court at 450 Main Street, Hartford, Connecticut, Plaintiff will move the Court for an order discharging all of defendants judgment liens, copies annexed to the First and Second Cause of action, except 38 S. Whitney Street, Hartford.

Dated: December 21, 1973

STANLEY V. TUCKER

### MOTION TO DISCHARGE EXCESSIVE LIENS

Pursuant to FRCP Rule 69 (a) and pursuant to Conn. G. S. 49-50 Plaintiff moves the court for its order discharging all of Defendant's judgment liens except 38 S. Whitney St. Hartford on grounds there is sufficient equity in said property for courity for alleged debt and on grounds of denial of equal ... tection by continued existance of said liens and substantia. acrdship as set forth in supporting attached papers.

> By\_ STANLEY V. TUCKER

Certificate of Service By Mail

# AFFIDAVIT IN SUPPORT OF DISCHARGE OF EXCESSIVE LIENS

- I, STANLEY V. TUCKER, BEING first duly sworn, declare:
- 1. That I am the equity owner of 38 S. Whitney Street, Hartford, and other than the judgment lien of Defendants the only other lien is a first mortgage of approx \$30,000 balance and as shown in the <u>Appraiser's Report</u>, certified copy annexed hereto as Exhbit "A", the property was valued at \$60,000.00 and the lien of Defendants being approx \$25,000 there is a net equity of approx \$5,000 after said judgment lien.
- 2. That defendants have filed the same lien on 14 properties I have ownership interest in Connecticut and I face severe and irreparable harship due to liens in part as follows:
  - a. My daughter phoned a week ago desiring to enroll January

    1974 in the East with my financial help and I cannot release necessary cash due to said liens.
  - b. One property is or has been under construction and final realease of mortgage money is held up by said liens thus denying to me the right to pay sub-contractors and material suppliers.
  - c. Discussions are held up on a trade of one property necessary to improve the business situation due to liens.
  - d. Other property is vacant and I cannot secure mortgage moeny and build due to said liens.
- 3. Since date of Appraiser's Report, Ex "A", the following improvements increasing value at 38 S. Whitney St were done:
  - a. Four apts had new wall to wall carpet installed
  - b. Four apts were completely repainted.

Ву					
ьy	STANLEY V.	TUCKER		Subscribed to and before me this	sworn to day of
		-2-	-M 2-	And the second	Notary Publi

# BRIEF IN SUPPORT OF DISCHARGE OF EXCESSIVE LIENS

FRCP RULE 69 (A): "The procedure... in proceedings supplemental to and in aid of a judgment,.... shall be in accordance with the practice and procedue of the state in which the district court is held....'"

This district court sits in Connecticut and is thus empowered to apply the relief set forth in the Connecticut General Statutes. The record amply shows defendants did not follow the method of execution mandated by Rule 69, namely wait until their judgment was finalized but without notice to Plainliff and without the due process hearing required by the 14th Amendment to the U.S. Constitution filed 14 liens on property of plaintiff.

#### CONNECTICUT G. S. 49-50 :

§ 49-50. Discharge of lien from land not needed to secure judgment

Any person interested, as a subsequent encumbrancer or otherwise, in any real estate covered by a judgment lien may bring a complaint, alleging that such lien covers more than sufficient property to reasonably secure such judgment; and the court may, upon such allegation being proved, discharge from such lien any of such real estate which is not needed for the reasonable security of the judgment debt; and the jurisdiction of the court

shall be determined by the amount of the judgment debt as stated in the certificate of lien. (1949 Rev., § 7231.)

G. S. 49-50 does no more than to follow the U.S. Constitution 14th Amendment thereto which mandates the principle that there be equal protection of the laws for all persons, including debtors and creditors. There is no reason in law nor in equity for defendants to tie up all of Plainitiff's property to the extent he cannot educate his daughter nor pay his debts nor build on vacant land.

Surely under state and federal law the liens should be discharged.

Respectfully Submitted:

By.

1. 1.

ELIZABETH ANN RICHARDS, a/k/a )

COURT OF COMMON PLEAS

VO

COUNTY OF HARTFORD

STANLEY V. TUCKER, ET AL.

JUNE 28, 1973

## APPRAISAL UNDER OATH

We, the undersigned disinterested persons, having been appointed by the Court and having been duly sworn, do appraise the premises described in the complaint in the above entitled action, being 38 South Whitney Street, with the buildings thereon, situated in the Tean of Hartford, County of Hartford and State of Connecticat, at the sum of sixty thousand (60,000.00) dollars.

Richard A. G.

Ta Dunn, Jr.

Man!

Subscribed and is the to at Hartford, Connecticut, this day of June, 1973, before me val, 1973

Commissioner of the superior Court

EXHIBIT "A"

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STATE OF CONNECTICUT, Hartford County

I. Harcia F. Goodman, Asst., Clerk of the Court of Common Pleas for Hartford County,
HEREBY CERTIFY the foregoing to be a true copy of record of Appraisal Under Oath

# UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

STANLEY V. TUCKER,

Plaintiff,

Civil Action No. H-8

Civil Action No. H-8

DEFENDANT'S BRIEF IN OPPOSITION

TO MOTION FOR DISCHARGE OF

JUDGMENT LIENS

Defendants.

January 5, 1974

By motion, plaintiff asks the court to order the discharge of all but one of the judgment liens in issue under the pleadings. He contends that his property at 38 S. Whitney Street, Hartford, adequately secures the judgment, and that the liens upon his other property are accordingly "excessive." He relies upon the provisions of Section 49-50 of the Connecticut General Statutes, applicable by this court, in a proper case, under Federal Rule 69(a).

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Section 49-50, Conn Gen Stats, enables a judgment debtor to "bring a complaint" for the discharge of any liens which he alleges are unnecessary for the reasonable security of the judgment debt, and "upon such allegation being proved," the court may discharge the superfluous encumbrances. The statute thus

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makes clear that the issue is to be raised by appropriate pleadings in an original action and tried or otherwise adjudicated by final judgment. The judgment creditor is not to be divested of a security interest by anything less.

Plaintiff, however, seeks the remedy not by judgment, but by motion, in an action which does not present the issue. The complaint, as amended, contends that all of the judgment liens are null and void as "false and fraudulent" (first count) and for lack of jurisdiction in personam on the part of the court of rendition (second count). It does not allege that the liens are excessive, but that there is not a valid underlying judgment. The inconsistency between this action and an action for relief under Section 49-50, supra, is accentuated by plaintiff's special emphasis in his complaint (para. 6 of each count) upon the injury he has allegedly suffered from the lien upon the Whitney Street property in particular, while in his pending motion he suggest that that property alone remain subject to the lien and that only the other properties be released.

This is the wrong case, and a motion (other than a motion for judgment) the wrong means, for the relief sought by plaintiff.

II

By counterclaims set forth in her answer, defendant JEAN NEAL demands foreclosure of the liens to satisfy her judgment against plaintiff. Plaintiff failed to plead in reply thereto, and on August 10, 1973, defendant's request for entry of default was filed. She is now entitled to apply to the court for judgment under Rule 55(b)(2). Nothing in Section 49-50, supra, indicates its availability to interdict proceedings on the counterclaims at this stage of the litigation.

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Plaintiff asserts in his motion that the property at 38 S. Whitney Street is of sufficient net value to satisfy defendant's judgment. If that is so, and if plaintiff is prepared to equity unto others as he would have the court do equity unto him, he will accept the offer which defendant hereby tenders to stipulate to a foreclosure sale of the Whitney Street property at the earliest practicable time. If the proceeds of sale are adequate to pay defendant's judgment, she would be obliged to, and would, forthwith release all other liens in dispute, giving plaintiff the very relief he seeks by the present motion.

JEAN NEAL

Defendant Pro Se 621 East Main Street

P. O. Box 671

Santa Paula, California 93060

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#### Plaintiff

-VS-

JEAN NEAL, ROBERT R.
ANDERSON, and ANDERSON
& ANDERSON, a FOREIGN
PARTNERSHIP.

CTVIL RIGHTS COMPLAINT

APRIL 10th, 1973

- 1. This is an action for declaratory and injunctive relief and for damages authorized by 42 USC Sections 1983 and 1985.

  2. Jurisdiction is conferred on this Court by Title 28

  U. S. C. 1331, 1332, and 1343 (1), (2), (3), and (4), and by Title 28 U.S.C. 1655; and by Title 28 U.S.C. 2201 and 2202 and Title 28 U.S.C. 2281 and 2284. The matter in controversy exceeds, exclusive of interest and costs. the sum of Ten Thousand Dollars, Inso far as this action seeks declaratory relief it is brought pursuant to 28 U.S.C. Sections 2201 and 2202.
- 3. The Plaintiff is resident and citizen of the State of Connecticut and the Defendants, JEAN NEAL and ROBERT R.

  ANDERSON, are all residents and citizens of the State of California and ANDERSON & ANDERSON is believed to be a foreign partnership located within the state of California 4. That without notice or hearing to Plaintiff the Defendants prepared nine purported judgment liens that were false and fraudulent and on or about September 1972 Said Defendants acting in concert and conspiracy knowinly, willfully and wantonly and maliciously caused said purported judgment liens to be recorded in the land records of the Towns of Bristol and/or Hartford and/or Torrington, Connecitut.

  Certified copies of said purported judgment liens are

annexed heroto and made a part of this complaint as Exhibits "B", "C", "D" "E", "F", "G", "H", "I", and "J". Said pretended judgment liens purport that on the 5th day of September 1972 Defendant, Jean Neal, obtained a judgment in her favor in the UNITED STATES DISTRICT COURT at New Haven whereas there has never been a judgment rendered or obtained or even a complaint filed and/or served in the UNITED STATES DISTRICT COURT at New Haven with JEAN NEAL as Plaintiff and with STANLEY V. TUCKER as Defendant; and annexed hereto and made a part of this complaint as EXHIBIT "A". is the Certificate of the Clerk of the UNITED STATES DISTRICT COURT at New Haven so certifying. Said purported judgment liens were maliciously and fraudulently prepared and filed for purposes of harassment of Plaintiff and to interfer with Plaintiff's normal business operations and to damage or destroy Plaintiff's credit reputation and to deny without due process, without notice or hearing, to Plaintiff the right to mortgage, transfer or sell his property in the ordinary course of business. 5. That Plaintiff seeks in these proceedings a declaratory order or declaratory judgment of this court declaring each and all of said pretended judgment liens as invalid, null and void and as discharged or released of record or alternatively an order of this court compelling defendants to discharge and/or release said purported judgment liens by recording properly drawn and executed releases and filing said releases in the land records of the towns of Bristol, Hartford and Torrington, Connecticut.

6. Plaintiff faces immediate and irreparable harm in that one of the pretended judgment liens, See Ex "B" annexed hereto, impounds or attaches or creates a cloud over the title to property at 38 S. Whitney Street, Hartford and said 38 S. Whitney Street, Hartford has been subjected to a foreclosure action in the Hartford Court of Common Pleas with a law date set of June 1st, 1973. Plaintiff has substantial equity in 38 S. Whitney Street and in the normal course of affairs could refinance and dispose of the judgment in the foreclosure action. Nevertheless the liens and/or cloud on title created by the false and pretended judgment lien filed by Defendants herein prevents re-financing and Plaintiff is threatened with immediate and irreparable loss of his equity in 38 S. Whitney Street, Hartford, unless temporary and permanent restraining orders are granted by this court restraining the Defendants, and each of them, from any delay in release of their purported judgment liens. 7. Plaintiff faces immediate and irreparable harm in that Plaintiff has been vexed with a number of state court actions involving pre-judgment attachments and/or liens one of which required Plaintiff to file in the federal courts a challenge to the constitutionality of Connecticut's pre-judgment attachment laws, TUCKER v MAHER, 405 US 1052; said case awaiting assignment to a three judge district court. As a direct result of unconstitutional and illegal pre-judgment attachments and/or liens, such as those filed by Defendants herein, Plaintiff has been forced

to let certain taxes become delinquent in payment of

current bills and liabilities. On or about March 30, 1973 Plaintiff recieved notice that unless taxes are paid current on two of these properties, see EXHIBIT "K" annexed hereto and made part of this complaint, the mortgaging bank will foreclose. In the normal course of business Plaintiff could refinance and pay the taxes and retain a substantial equity but due to clouds placed upon his properties by purported judgment liens by Defendants herein Plaintiff cannot refinance and is faced with threatened loss of substantial equities unless

temporary and permanent restraining orders are granted by this Court restraining the Defendants, and each of them, from any delay in release of their purported judgment liens.

8. Said pretended judgment liens have created a cloud on the title to nine parcels of real estate and effectively denied to Plaintiff the use of his own property without due proces and without notice or hearing and illegally and fraudulently in violation of Plaintiff's fundamentally federally guaranteed constitutional rights thus causing damages to Plaintiff's business and credit reputation and thus causing Plaintiff to incur higher interest costs and thus causing Plaintiff to incur needless costs in seeking further financing and/or refinancing and causing further damages to Plaintiff in that he is denied the use of equity moneys in said nine parcels of real estate 9. On or about September 29, 1972 in the Commercial Record a leading financial publication circulated throughout

Connecticut to key leaders in banking, finance, lending, construction, contracting, sub-contracting, etc.., there was published the recording of the said purported liens by Defendants against the property interests of Plaintiff, said publication made without notice or hearing to Plaintiff. Said publication came at a time when Plaintiff was actively negotiating for financing of property in the ordinary course of business and caused great injury and damages to Plaintiff's business reputation and credit standing and caused Plaintiff to incurr greater interest costs.

WHEREFORE the Plaintiff respectfully prays that this Court:

1. Enter a final judgment pursuant to 28

U. S. C. 2201 and 2202 and Rule 57 of the

FPCP declaring each of the nine purported

judgment liens recorded by Defendants as null and void and as released or discharged of record and/or alternatively order ing Defendants to properly prepare and to properly execute and properly record releases discharging each of the nine said purported judgment liens.

2. Grant temporary and permanent injunctions restraining the Defendants and each of them from any delay in promptly and properly preparing and executing and recording releases of each of the said nine pretended judgment 105-

- 3. Enter a final judgment granting Plaintiff the sum of \$200,000 damages.
- 4. Enter order for such other and further relief as is deemed just and appropriate.
- 5. Grant Plaintiff his costs herein.

Dated: April 10th, 1973

STANLEY V. TUCKER/PLAINTIFF

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#### CERTIFICATE OF CLERK

- I, Gilbert C. Earl, Clerk of the United States District Court for the District of Connecticut, do hereby certify that an examination of the records of this office disclose the following:
- 1. That on September 5, 1972, no judgment was rendered by this Court in favor of Jean Neal as plaintiff against Stanley V. Tucker as defendant;
- 2. That no complaint or civil action has ever been filed in this Court with Jean Neal as plaintiff and Stanley V. Tucker as defendant; and,
- 3. That on September 5, 1972, a certified copy of an "Order Granting Plaintiff's Motion for Summary Judgment" in No. C-71-1447 AJZ, Jean Neal vs. Stanley . Tucker entered by the U.S. District Court for the Northern District of California was filed in this Court, together with a certification of Judgment for registration in another District.

Dated at New Haven, Connecticut this 13th day of October, 1972.

box 4060

Clerk

DISTRICT OF CONNECTICUT U.S. DISTRICT COURT HARTFORD, CONN. STANLEY V. TUCKER; C. A. No H-8 Plaintiff FIRST AMENDED -vs-COMPLAINT JEAN NEAL, et al Defendants OCTOBER 15, 1973 Pursuant to FRCP Rule 15 (a), with leave of the Court, Plaintiff a hereby designates the complaint on file as "First Cause of Action" and hereby amends his complaint to add the causes of action set forth hereinbelow: SECOND CAUSE OF ACTION -1. This is an action for declaratory and injunctive relief and for damages authorized by 42 USC Sections 1983 and 1985. 2. Jurisdiction in conferred on this Court by Title 28U. S. C. 1331, 1332, and 1343 (1), (2), (3), and (4), and by Title 28 U. S. C. 1655, and by Title 28 U. S. C. 2201 and 2202. 3. The Plaintiff is a resident and citizen of the State of Connecticut and the Deffndants, Jean NEAL and ROBERT R. ANDERSON, are all residents and citizens of the State of California and ANDERSON & ANDERSON is believed to be a foreign partnership located within the State of California. 4. That Plaintiff seeks in these proceedings a declaratory order or declaratory judgment of this court declaring that the Order Granting Summary Judgment dated July 20, 1972 in the United States District Court - Northern District of California, copy annexed and made part of this complaint as Exhibit ".", is null and void as made without due process and in violation of Plaintiff's fundamental federally guaranteed rights by reason that the United States District Court -Northern District of California did not have jurisdiction over Plaintiff by reason Plaintiff did not have the necessary

minimum activities within the State of California.

- 4. Plaintiff seeks declaratory order or declaratory judgment of this court declaring that the nine pretended judgment liens annexed to the "First Cause of Action" as Exhibits "B", "C", "D", "E", "F", "G", "H", and "I", AND "J" AS WELL as the additional pretended judgment liens annexed to this amendment to the complaint as Exhibits "A", "M", "N", "O", and "P", "Q" are each and all null and void by reason that the pretended judgment or order upon which said judgment liens are based, is null and void as outlined in Paragraph (3) above.
- 5. Plaintiff seeks temporary, preliminary and permanent injunctions restraining the defendants and each of them from any delay in properly preparing and properly and promtly recording reaeases from each of the pretended judgment liens set forth in Para (4) above; and or in the alternate Plaintiff seeks an order of this court declaring said pretended judgment liens as discharged and released of record.
- 6. Plaintiff seeks damages by reason that the pretended judgment liens filed willfully and maliciously have caused a cloud upon title to all the properties of PlaIntiff and Plaintiff has been denied the right to sell or mortgage said properties and further denied the right to build on said properties to the extent liens prevented recording of a first mortgage and has suffered increased interest costs due to inflation and has suffered and will suffer greatly increased costs of interest and construction and has suffered damages to his business reputation by reason of publication of said liens in the COMMERICAL RECORD without notice or hearing to Plaintiff. Plaintiff claims damages of extra costs & expenses and losses due to denial of right to refinance or to sall or to buy property at foreclosure sale at 38 S. Whitney St and Plaintiff claims damages of \$500,000.00.

- WHEREFORE, plaintiff respectfully prays that this Court grant the relief set forth below n the second cause of action in addition to the relief prayed for in the first cause of action;
  - 1. Enter a final judgment pursuant to 28 USC Sections 2201 and 2202 and Rule 57 FRCP, that the ORDER GRANTING SUMMARY JUDGMENT dated July 20, 1972 and made in the USDC Northern District of California and all of the pretended judgment liens annexed to the First Cause of Action herein as Exhibits and all of the pretended judgment liens annexed to this FIRST AMENDED COMPLAINT are null and void as contrary to the United States Constitution and the amendments thereto and as violative of Plaintiff's fundamental federally guaranteed rights.
  - 2. Enter temporary, preliminary and permanent injunctions restraining the Defendants from any delay in properly preparing and properly executing and properly and promptly recording with the Town Clerks releases of each and every pretended judgment lien complained of herein; or alternatively an order of this court declaring each of the pretended judgment liens as null and void and release of record.
  - 3. Damages of \$500,000.00
  - 4. Grant Plaintiff his costs herein.
- 5. Grant Plaintiff such other and further relief as to this court may appear appropriate.

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# UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL,

Plaintiff,

VS

No. C-71-1447 AJZ

STANLEY V. TUCKER.

Defendant ..

#### ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

This cause came on regularly for hearing on May 22, 1972, upon plaintiff's motion for summary judgment, no one appearing for either party, and the matter being submitted. Upon consideration of the pleadings and affidavits on file, the court concludes that there is no genuine issue as to any material fact herein and that plaintiff is entitled to judgment as a matter of law. Accordingly, the plaintiff's motion for summary judgment is granted.

Based on the foregoing order, IT IS HEREBY ORDERED,

ADJUDGED AND DECREED that plaintiff Jean Neal recover from

defendant Stanley V. Tucker the sum of \$20,723.61, with interest of 7 per cent per annum thereon from April 23, 1969 in

the further sum of \$4,417.31, for a total judgment of

\$25,141.70, and plaintiff's costs.

Dated: Quely 29/172

United States District Judge

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EXHIBIT L -P 4-

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# UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

STANLEY V. TUCKER,

Plaintiff.

-vs-

JEAN NEAL, ROBERT R. ANDERSON, and ANDERSON & ANDERSON, etc.,

Defendants.

CIVIL ACTION NO. H-8

ANSWER OF DEFENDANTS ROBERT R. ANDERSON and ANDERSON & ANDERSON

Defendants ROBERT R. ANDERSON and ANDERSON & ANDERSON, a partnership, answer plaintiff's complaint as follows:

- 1. Defendants deny that plaintiff's action is within the terms of Section 1983 or 1985 of Title 42, United States Code.
- 2. Defendants admit that jurisdiction of the action is conferred on this court under 28 United States Code § 1332; that the action is subject to 28 United States Code §§ 1655, 2201 and 2202; and that the matter in controversy, exclusive of interest and costs, exceeds \$10,000. Except as so admitted, defendants deny the allegations of paragraph 2 of the complaint.
- 3. Defendants admit the allegations of paragraph 3 of the complaint.
  - 4. Defendants admit that they prepared the nine judgment

liens referred to in the complaint and caused them to be recorded 1 in September 1972 in the land records of the Towns of Bristol. 2 Hartford and Torrington, Connecticut; that Exhibits B through J 3 to the complaint are true and correct copies of said judgment 4 liens; and that the "Certificate of Clerk," appearing as Exhibit 5 A to the complaint is true except insofar as it states legal 6 conclusions at variance with 28 United States Code § 1963. 7 Otherwise, defendants deny the allegations of paragraph 4 of 8 9 the complaint. 10 5. Defendants deny the allegations of paragraph 5 of the complaint, except insofar as they state the desires of 11 12 plaintiff for relief. 6. Defendants admit that the judgment lien appearing as 13 Exhibit B to the complaint affects plaintiff's title to property 14 at 38 S. Whitney Street, Hartford, and they allege that the lien 15 16 is valid. Otherwise, defendants have no knowledge or information sufficient to form a belief as to the truth of the allegations 17 of paragraph 6 of the complaint. 18 19 20

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7. Defendants allege that all of the judgment liens which are the subject of the action are valid. Otherwise, defendants have no knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 7, 8 and 9 of the complaint.

# First Affirmative Defense

The court lacks jurisdiction over the persons of defendants, in that the defendants have not been served with process within the State of Connecticut; nor have they transacted any business, committed a tortious act, or committed a tortious act anywhere causing injury to person or property, in that State; nor do they own, use or possess any real property in that State.

# Second Affirmative Defense

The process of the court is insufficient, in that the summons sought to be served upon defendants under Rule 4(e), Federal Rules of Civil Procedure, fails to correspond as nearly as may be to that required by the applicable statute or rule of the State of Connecticut, and further fails to state the different time, if any, prescribed by said statute or rule within which to answer the complaint.

# Third Affirmative Defense

The complaint fails to state a claim upon which relief can be granted, in that the records of this court, subject to judicial notice, establish that the judgment liens referred to in the complaint are based upon a judgment of another district, registered in this court pursuant to 28 United States Code § 1963.

# Fourth Affirmative Defense

The complaint fails to join as parties persons required to be joined under Rule 19, Federal Rules of Civil Procedure.

WHEREFORE, defendants demand judgment, with costs.

ROBERT R. ANDERSON ANDERSON & ANDERSON

Robert R. Anderson

621 East Main Street-P. O. Box 671

Santa Paula, California 93060

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# UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

STANLEY V. TUCKER,

Plaintiff.

JEAN NEAL, ROBERT R. ANDERSON, and ANDERSON & ANDERSON, etc.,

Defendants.

Civil Action No. H-8

ANSWER AND COUNTERCLAIMS OF DEFENDANT JEAN NEAL

Defendant JEAN NEAL answers the complaint herein as follows:

### First Defense

- 1. Defendant denies that plaintiff's action is within the terms of Section 1983 of Title 42, United States Code.
- 2. Defendant admits that jurisdiction of the action is conferred on this court under 28 United States Code § 1332; that the action is subject to 28 United States Code §§ 1655, 2201 and 2202; and that the matter in controversy, exclusive of interest and costs, exceeds \$10,000. Except as so admitted, defendant denies the allegations of paragraph 2 of the complaint.
- 3. Defendant admits the allegations of paragraph 3 of the complaint.
  - 4. Defendant admits that she executed the nine judgment

liens referred to in the complaint and authorized their recording in the land records of the Towns of Bristol, Hartford and Torrington, Connecticut; that Exhibits B through J to the complaint are true and correct copies of the judgment liens; and that the "Certificate of Clerk," appearing as Exhibit A to the complaint, is true except insofar as it states legal conclusions at variance with 28 United States Code § 1963.

Otherwise, defendant denies the allegations of paragraph 4 of the complaint.

- 5. Defendant denies the allegations of paragraph 5 of the complaint, except insofar as they state the desires of plaintiff for relief.
- 6. Defendant admits that the judgment lien appearing as Exhibit B to the complaint affects plaintiff's title to property at 38 S. Whitney Street, Hartford, and she alleges that the lien is valid. Otherwise, defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the complaint.
- 7. Defendant alleges that all of the judgment liens which are the subject of the action are valid. Otherwise, defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 7, 8 and 9 of the complaint.

# Second Defense

The complaint fails to state a claim upon which relief can be granted, in that the judgment liens referred to in the complaint are based on a judgment of this court in NEAL vs. TUCKER, docket No. 15291.

# Third Defense

The complaint fails to join as parties persons required to be joined under Rule 19, Federal Rules of Civil Procedure.

 1. Plaintiff is a citizen of the State of Connecticut, and defendant is a citizen of the State of California. The matter in controversy, exclusive of interest and costs, exceeds \$10,000.

2. On September 5, 1972, defendant recovered judgment against plaintiff in this court for \$25,141.70 in NEAL vs. TUCKER, No. 15291.

3. On March 6, 1973, to secure the judgment, defendant filed a certificate of judgment lien with the Town Clerk of Hartford, Connecticut, recorded that day in the Hartford Land Records, Volume 1353, page 274, upon certain real property of plaintiff particularly described in the certificate and commonly known as 121 Allen Place, Hartford. A true copy of the certificate is attached hereto as Exhibit A and incorporated herein by reference.

4. Nothing has ever been paid on the judgment, and it is wholly unsatisfied.

# Second Counterclaim

1. Defendant incorporates by reference the allegations of paragraphs 1, 2 and 4 of her First Counterclaim, supra.

2. On September 15, 1972, to secure the judgment, defendant filed a certificate of judgment lien with the Town Clerk of Hartford, Connecticut, recorded that day in the Hartford Land Records, Volume 1325, page 341, upon certain real property of plaintiff particularly described in the certificate and commonly known as 38 S. Whitney Street, Hartford. A true copy of the certificate is attached to the complaint herein as Exhibit B and incorporated into this answer by reference.

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#### Third Counterclaim

1. Defendant incorporates by reference the allegations of

1 paragraphs 1, 2 and 4 of her First Counterclaim, supra. 2 2. On September 15, 1972, to secure the judgment, defendant 3 filed a certificate of judgment lien with the Town Clerk of 4 Hartford, Connecticut, recorded that date in the Hartford Land 5 Records, Volume 1325, page 340, upon certain real property of 6 plaintiff particularly described in the certificate, a true copy 7 of which is attached to the complaint herein as Exhibit C and . 8 incorporated into this answer by reference. 9 10 Fourth Counterclaim 11 1. Defendant incorporates by reference the allegations of 12 paragraphs 1, 2 and 4 of her First Counterclaim, supra. 13 2. On September 15, 1972, to secure the judgment, defendant 14 filed a certificate of judgment lien with the Town Clerk of 15 Hartford, Connecticut, recorded that day in the Hartford Land 16 Records, Volume 1325, page 339, upon certain real property of 17 plaintiff particularly described in the certificate and commonly 18 known as 53 Hamilton Street, Hartford. A true copy of the 19 certificate is attached to the complaint herein as Exhibit D and 20 incorporated herein by reference. 21 22 Fifth Counterclaim 23 1. Defendant incorporates by reference the allegations of 24 paragraphs 1, 2 and 4 of her First Counterclaim, supra. 25 2. On September 15, 1972, to secure the judgment, defendant 26 filed a certificate of judgment lien with the Town Clerk of 27 Hartford, Connecticut, recorded that day in the Hartford Land 28 Records, Volume 1325, page 342, upon certain real property of 29 plaintiff particularly described in the certificate and commonly 30 known as 69 Amity Street, Hartford. A true copy of the certificate 31 is attached to the complaint herein as Exhibit E and incorporated 32 -R 4into this answer by reference.

#### Sixth Counterclaim

- 1. Defendant incorporates by reference the allegations of paragraphs 1, 2 and 4 of her First Counterclaim, supra.
- 2. On September 15, 1972, to secure the judgment, defendant filed a certificate of judgment lien with the Town Clerk of Hartford, Connecticut, recorded that day in the Hartford Land Records, Volume 1325, page 343, upon certain real property of plaintiff particularly described in the certificate and commonly known as 67 Amity Street, Hartford. A true copy of the certificate is attached to the complaint herein as Exhibit F and incorporated into this answer by reference.

### Seventh Counterclaim

- 1. Defendant incorporates by reference the allegations of paragraphs 1, 2 and 4 of her First Counterclaim, supra.
- 2. On September 15, 1972, to secure the judgment, defendant filed a certificate of judgment lien with the Town Clerk of Hartford, Connecticut, recorded that day in he Hartford Land Records, Volume 1325, page 344, upon certain real property of plaintiff particularly described in the certificate and commonly known as 963-965 Capitol Avenue, Hartford. A true copy of the certificate is attached to the complaint herein as Exhibit G and incorporated into this answer by reference.

# Eighth Counterclaim

- 1. Defendant incorporates by reference the allegations of paragraphs 1, 2 and 4 of her First Counterclaim, supra.
- 2. On September 14, 1972, to secure the judgment, defendant filed a certificate of judgment lien with the Town Clerk of Bristol, Connecticut, recorded that day in the Bristol Land Records, Volume 604, page 1084, upon certain real property of plaintiff particularly described in the certificate, a true copy

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of which is attached to the complaint herein as Exhibit H and incorporated into this answer by reference.

# Ninth Counterclaim

- 1. Defendant incorporates by reference the allegations of paragraphs 1, 2 and 4 of her First Counterclaim, supra.
- 2. On September 14, 1972, to secure the judgment, defendant filed a certificate of judgment lien with the Town Clerk of Torrington, Connecticut, recorded that day in the Torrington Land Records, Volume 287, page 247, upon certain real property of plaintiff particularly described in the certificate, a true copy of which is attached to the complaint herein as Exhibit I and incorporated into this answer by reference.

#### Tenth Counterclaim

- 1. Defendant incorporates by reference the allegations of paragraphs 1, 2 and 4 of her First Counterclaim, supra.
- 2. On September 14, 1972, to secure the judgment, defendant filed a certificate of judgment lien with the Town Clerk of Torrington, Connecticut, recorded that day in the Torrington Land Records, Volume 287, page 246, upon certain real property of plaintiff particularly described in the certificate and commonly known as 711 East Main Street, Torrington. A true copy of the certificate is attached to the complaint herein as Exhibit J and incorporated into this answer by reference.

# Eleventh Counterclaim

- 1. Defendant incorporates by reference the allegations of paragraphs 1, 2 and 4 of her First Counterclaim, supra.
- 2. On May 23, 1973, to secure the judgment, defendant filed a certificate of judgment lien with the Town Clerk of -R6 Bristol, Connecticut, recorded that day in the Bristol Land

paragraphs 1, 2 and 4 of her First Counterclaim, supra.

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2. On or about June 11, 1973, to secure the judgment, defendant submitted to the Town Clerk of Bristol, Connecticut, a certificate of judgment lien upon certain real property of plaintiff particularly described therein. Defendant is informed and believes that the certificate was thereupon recorded in the Bristol Land Records, but she is ignorant of the volume and page numbers of the recording. A true copy of the certificate is attached hereto as Exhibit N and incorporated herein by reference.

WHEREFORE, defendant demands judgment against plaintiff foreclosing the liens described in defendant's counterclaims, or so many of the liens as may be required to satisfy the judgment against plaintiff, together with defendant's costs of suit and all other appropriate relief.

Jean NEAL

Defendant Pro Se c/o ANDERSON & ANDERSON 621 East Main Street P. O. Box 671 Santa Paula, California 93060

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UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

Plaintiff. JEAN NEAL, ROBERT R. ANDERSON. and ANDERSON & ANDERSON, etc., Defendants.

Civil Action No. H-8 ANSWER TO COMPLAINT AS AMENDED

Defendants confirm their respective answers previously filed with the court, and they now answer plaintiff's "second cause of action" (hereinafter "the second count") added by amendment under order of October 2, 1973:

### First Defense

- 1. Defendants deny that plaintiff's action is within the terms of Section 1983 or 1985 of Title 42, United States Code.
- 2. Defendants admit that jurisdiction of the action is conferred on this court under 28 United States Code § 1332; that the action is subject to 28 United States Code §§ 1655, 2201 and 2202; and that the matter in controversy, exclusive of interest and costs, exceeds \$10,000. Except as so admitted, defendants deny the allegations of paragraph 2 of the second count.
  - 3. Defendants admit the allegations of paragraph 3 of the

second count.

- 4. Except for the statement of relief sought by plaintiff, defendants deny the allegations of both paragraphs 4 and paragraph 5 of the second count.
- 5. Defendants deny the allegations of paragraph 6 that the judgment liens were filed wilfully and maliciously.

#### Second Defense

In NEAL vs TUCKER, United States District Court, Northern District of California, No. C-71-1447 AJZ, (hereinafter "the California action") the issue of the court's jurisdiction over plaintiff in personam was fully litigated and determined adversely to him, he took no appeal from the judgment per se, and the judgment is res judicata upon the issue.

#### Third Defense

On October 9, 1973, in the California action, the United States Supreme Court denied plaintiff's petition for a writ of certiorari, No. 72-1611.

# Fourth Defense

The district court in the California action had jurisdiction over plaintiff in personam on the basis of plaintiff's substantial activities in the State of California, including activities giving rise directly to the cause of action sued upon there, as follows:

- (a) Plaintiff was domiciled in California until 1961. His minor children remained in that state after his departure, and two of them were still domiciled there at the inception of the California action.
- (b) From 1963 to 1969 he commenced at least 36 civil actions or proceedings in California, in the U. S. District Courts for the Northern, Central, and Southern Districts of the state,

and in the superior or municipal courts of Los Angeles, Ventura, Santa Barbara, and Santa Clara Counties. He denominated such litigation his "California practice."

- (c) Until 1969 he visited California regularly, up to several times a year, often for weeks on end, to see his children and personally conduct litigation as plaintiff pro se.
- (d) He committed the tort of malicious prosecution in California against defendant JEAN NEAL, in a case entitled TUCKER vs NEAL, Santa Barbara County Superior Court, No. 74839. The tort was duly adjudicated in NEAL vs TUCKER, Ventura County Superior Court, No. 50686, in which plaintiff appeared generally and personally conducted the case in his own behalf at trial and on appeal. The result was a judgment awarding Mrs. NEAL damages, affirmed on appeal and denied a hearing by the California Supreme Court.
- (e) The California action was founded upon the judgment for Mrs. NEAL in the state court action.

WHEREFORE, defendants demand judgment, with costs.

ANDERSON & ANDERSON

-S 3-

Defendants Pro Se 621 East Main Street

P. O. Box 671

Santa Paula, California 93060

# UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

STANLEY V. TUCKER,

-vs-

C. A. No H-8

JEAN NEAL, ROBERT R. ANDERSON, and ANDERSON & ANDERSON, etc.

MOTION FOR NEW TRIAL ON RULING ON CROSS-MOTIONS FOR SUMMARY

TO DEFENDANTS HEREIN: PLEASE TAKE NOTICE that on the first available motion day Plaintiff will move the above-entitled court in the Sou th Courtroom, 450 Main Street, Hartford, Conn. for a new trial pursuant to FRCP Rule 59 (a) Said motion will be made and based upon the grounds of:

- 1. Contrary to law
- 2. Newly discovered ev idence

Specifically the above entitled court is moved to vacate the ruling granting defendants motion for summary judgment and denying plaintiff's motion for summary judgment and/or grant a new trial as to summary judgment and/or grant Plaintiff's motion for summary judgment based upon all matters of file and EX "A"&"B" &"C" & "D" annexed hereto, AFFIDAVIT OF SERVICE &APPLICATION FOR ISSUANCE OF SUMMONS, ORDER & Brief annexed hereto, and upon the recently announced decision by the 9th C.A in Veek v Commodity Enterprises 487 F2 d 423.

-U 1- STANLEY V. TUCKER
Certificate of Service By Mail

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I. FRCP RULE 59 a: "a motion for new trial shall be served not later than 10 days after entry of judgment"

In this action the ruling on cross- motions for summary judgment is dated March 5th and file stamped or "entered" March 6th, 1974 and this motion is timely being served March 10th, 1974

II. DEFENDANTS ADMIT AND TRIAL COURT IN ITS RULING CONFIRMED THAT THE JUDGMENT IN CALIFORNIA'S DISTRICT COURT IS LACKING IN DUE PROCESS IF THAT COURT HAD NO JURISDICTION

"The defendants do not dispute the general proposition that proceedings in a court.... to determine the personal rights and obligations over whom that court has no jurisdiction do not constitute due process of law."

The record shows that Defendants filed their liens in September 1972 and further liens about March 1973 and in April 1973 this Plaintiff filed his civil rights com-. The Defendants Motion For plaint herein . Summary Judgment is dated Dec 8, 1973 and Plaintiff's Motion For Summary Judgment is dated Dec 22, 1973. All of the above documents were prepared and filed without benefit of the recent decision of the 9th C. A., made available to the general public on January 21, 1974 in Veeck v Commodity Enterprises, Inc 487 F 2d 423 . The facts in Veeck, supra, are most applicable to herein. Long arm service was made by a primate person under the California long arm statute. The 9th C. A. held that there was no jurisdiction because FRCP RULE 4e only permitted the state long arm statute to be followed as to method of service whereas FRCP Rule 4 c mandated that the service was void unless made by the federal marshal or some person appointed by the Court.

The contents of EXHIBITS A & B show:

- 1. Without the slightest doubt Attorney Anderson made personally service by mail (Ex A)
- 2. Without the slightest doubt Attorney Anderson failed to obtain a court order as required by FRCP RULE 4c ( Veek supra ) and mistakenly assumed he could make such a service.

See EX B 8 lines 12 - 15:

"here it is contemplated that Plaintiff's counsel or his employee will effect service by mail. There is no reason, under these circumstances, for summons to be diverted to the marshall."

- See EX C: Order by Judge Zirpoli. This order permits service under Rule 4(e) but fails to comply with Rule 4(c) in that there is no appointment of a person specially to make service in lieu of the Marshall.
- III. ATTORNEY ANDERSONS' EX PARTE APPLICATION TO JUDGE ZIRPOLI UNDER RULE 4(e) FOR PERMISSION TO FOLLOW CALIFORNIA'S LONG ARM STAUTE VIOLATED PLAINTIFF'S RIGHTS TO DUE PROCESS AS PRONOUNCED IN SNAIDACH V FAMILY FINANCE 395 U. S. 337

Anderson's application to Judge Zirpoli (Ex B 1) on its face brazenly shows its "ex parte " nature....

"ROBERT R. ANDERSON, hereby applies ex parte for an order...."

Nevertheless for 7 pages (B2-B8) Attorney

Anderson argued to . Judge Zirpoli (ex parte) that
he desired a long arm jurisdictional basis under Rule 4e.

Compare this with EX D - the complaint issued totally
barren of any inference of long arm jurisdictional basis
in violation of FRCP Rule 8 (a) 1:

"A pleading shall contain ... a short and simple statement of the grounds upon which the court's jurisdiction depends...."

Thus this Plaintiff was denied due process under the

Snaidach, supra rule because he filed his motion to dismiss and opposed the motion for summary judgment with out any knowledge of the seven "jurisdictional " pages Anderson filed "ex parte" with Judge Zirpoli. It was only months later after judgment was rendered against him in California and when this action commenced in Connecticut that this Plaintiff discovered this "new evidence" presented to this court as part of this motion.

Snaidach P 339: "The right to be heard has little reality or worth unless one is informed...."

See also Schroder v New York 371 U. S. 208

Mullane v Central Hanover Trust

339 U. S. 306

IV. ATTORNEY ANDERSONS PERSONAL RECORDING OF THE LIENS COMPLAINED OF HEREIN WAS VOID AS FEDERAL LAW MANDATES THESE LIENS MUST BE RECORDED BY THE FEDERAL MARSHALL

There is no doubt but that attorney Anderson himself caused the liens to be recorded by the Town Clerks of Hartford, Bristol and Torrington:

Answer Para 4: "Defendants admit that they prepared the nine judgment liens referred to in the complaint and caused them to be recorded in September 1972 in the land records of the Towns of Bristol, Hartford and Torrington"

FRCP RULE 4 c/<u>U. S A for the Use of Tanos v St Paul</u>
361 F 2d 838

"The rules of federal civil procedure have statutory effect & Rule 62 provides that any existing staute of the U. S. governs"

Court of Appeals held that writ of garnishment should have been served by U. S. Marshall.

We conclude order quashing service proper."

In This action Andersons liens were improper.

Summary Judgme..t Should be Granted on the Complaint and First Amended Complaint in favor of Plaintiff.

-4-				
-U 5-	Ву	/STANLEY	٧.	TUCKER

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

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11 JEAN NEAL,

Plaintiff,

Civil Action No. C-71 1447 AJZ

13 -vs-

STANLEY V. TUCKER,

AFFIDAVIT OF SERVICE

Defendant.

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State of California )

County of Ventura )

I, ROBERT R. ANDERSON, being first duly sworn, state the following:

I was, at the time of the service of summons described below, over the age of 18 years and not a party to the aboveentitled action.

I served the annexed summons by enclosing a true copy thereof, together with a copy of the complaint on file, in a scaled envelope marked for certified air mail, return receipt requested, with postage thereon fully prepaid, and by placing the same in the United States mail at Santa Paula, California, on September 9, 1971, addressed as follows:

MR. STANLEY V. TUCKER-963 Capitol Avenue Hartford, Connecticut 06106

EXHIBIT "A 1"

The certified mail receipt therefor, idecating of to addressee only, and bearing the signature "S V TUCKER," we subsequently returned to me by mail and is attached to this affidavit below.

I charged no fee for such service.

NOBERT R. ANDERSON

SUBSCRIBED and sworn to before me this 12th day of October 1971.

wid per year	こうしょうかんかい ひゃかにっしゅういん
0	OFFICIAL SEAL
174	KATHARINE P. ANDERSON
1000	NOTARY PUBLIC CALIFORNIA
1	VENTURA COUNTY
	My Commission Expires Sept. 10, 1974
CHOR SCO	CATTAL ALMITERS H. PREASURE

621 E. Main St., P. O. Dox 109, Santa Paula, Ca. 93060

RATHARINE P. ANDERSON

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	Deliver to Addressee Only
	JCTIONS TO DELIVERING EMPLOYEE  Show to whom, date, and Deliver ONLY to address where delivered to addressee delitional charges required for these services)
	RECEIPT ved the numbered article described below.
KEGISTERED NO.	SIGNATURE OR NAME OF ADDRESSEE (Alust always be filled in)
547751 INSURCO NO.	SIGNATURE OF ADDRESSEE'S AGENT, IF ARY

UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF CALIFORNIA

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JEAN NEAL,

Plaintiff.

Civil No. C-71 1447 AJZ

-vs-

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STANLEY V. TUCKER,

Defendant.

APPLICATION OF PLAINTIFF FOR ISSUANCE OF SUMMONS, AFFIDAVIT OF ROBERT R. ANDERSON, and POINTS AND AUTHORITIES

Plaintiff JEAN NEAL, through her counsel ROBERT R.

ANDERSON, hereby applies ex parte for an order directing the

Clerk of the Court to issue summons in the form attached hereto

and to transmit the same to plaintiff's counsel for service on

defendant outside the State of California in a manner authorized

by Rule 4(e), F.R.Civ.P.

The application is based upon the attached Affidavit of ROBERT R. ANDERSON and memorandum of Points and Authorities, and is accompanied by a proposed form of order.

Dated: September 3, 1971.

ROBERT R. ANDERSON

-U 8-

Attorney for Plaintiff 621 East Main Street P. O. Box 109 Santa Paula, California 93060

State of California County of Ventura 38

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I, ROBERT R. ANDERSON, being first duly sworn, state the following:

I am the attorney for plaintiff in the within-entitled action, and I make this affidavit in support of her application for an order for the issuance of summons for service outside this state.

Defendant is a former resident of California, who moved to Connecticut in 1961. His three minor children remained in this state in their mother's custody under a 1960 California divorce judgment, and two of them (including one still a minor) live here to the present time. Defendant visited California regularly from 1961 to 1969, up to several times a year, often for weeks at a time. Between December 1966 and July 1969, I personally saw defendant in California on not less than 50 different dates.

#### LIT

During the period 1963 to 1969, defendant filed, in pro se, at least 33 actions or proceedings in the courts of Los Angeles, Ventura, Santa Barbara, and Santa Clara Counties, California, and in the district courts of the United States sitting in this state.

#### IV

One such action, filed August 26, 1965, was entitled TUCKER v. NEAL, Santa Barbara Superior Court No. 74839. The defendant there is the plaintiff here, and the action was concluded in her favor by judgment of dismissal.

Dinintiffic claim

a judgment given in NEAL v. TUCKER, Ventura Superior Court 10, 50686, which established that defendant's Santa Barbara action was a malicious prosecution and awarded her damages whose recovery is now sought.

SUBSCRIBED and sworn to before me this 1st day of September 1971.



621 E. Main St., P. O. Box 109, Santa Paula, Ca. 93060

POINTS AND AUTHORITIES

Plaintiff seeks the issuance of summons in the form attached hereto, for service by plaintiff's counsel (or his employee) upon defendant at his residence in Connecticut, by means of certified air mail, with a return receipt requested.

To that end, this memorandum will try to establish the following propositions:

- (a) That defendant, although a resident of Connecticut and not presently to be found in California, is nevertheless subject to the exercise of this Court's state-derived "long-orm" jurisdiction.
- (b) That that jurisdiction may be exercised by service of summons in the manner proposed.
- (c) That the summons to be thus served should be in the form attached.
- (d) That the summons, when issued, should be sent to plaintiff's counsel for service, and not delivered to the marshal.

# Personal Jurisdiction over Defendant

A federal court in a diversity action may exercise personal jurisdiction over a nonresident defendant in accordance with the law of the state in which it sits, subject always to the requirements of fundamental fairness under the Due Process Clause. Mechanical Contractors Ass'n of America, Inc. vs Mechanical Contractors Ass'n of Northern California, Inc. (9th Cir., 1965), 342 F.2d 393, 398-99; see Kenny vs Alaska Airlines, Inc. (D.C., Cal. 1955), 132 F.Supp. 838. Generally, see Wright & Miller, 4 Fed. Prac. & Proc. § 1075, citing chiefly Arrowsmith vs United Press International (2d Cir., 1963), 320 F.2d 219; 2 Moore's Fed. Prac. ¶ 4.41-1[3].

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California has removed all limitations of its own age the extraterritorial reach of its courts, and thus of the fr 2 3 courts within its districts: 4 "A court of this state may exercise jurisdiction 5 on any basis not inconsistent with the Constitution 6 of this state or of the United States." Calif. Code 7 Civ. Proc., § 410.10. Sec Witkin, 1 Calif. Proc. 2d 8 532; 21 Hast. L.R. 1163. 9 The question, then, is whether, under the circumstances, STANLEY V. TUCKER is constitutionally amenable to suit in that 10 action. The answer comes from International Shoe Co. vs State 11 of Washington (1945), 326 U.S. 310, 316, 66 S.Ct. 154, 90 L.Ed. 12 95, 161 ALR 1057: "\* \* \* due process requires only that in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum; he have certain minimum contacts with it such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice. " The "minimum contacts" requirement may be satisfied by nothing more than isolated activity. McGee vs International Life Ins. Co. (1957), 355 U.S. 220, 78 S.Ct. 199, 2 L.Ed.2d 223. Even a single act --- especially one giving rise to the cause of action --- will warrant the assertion of jurisdiction over a nonresident. A tort committed within the forum state is such an act. Rosenblatt vs American Cyanamid Co. (1965), 86 S.Ct. 1, 15 L.Ed.2d 39. See annotation, 24 ALR3d 532. Defendant has undertaken substantial contacts with the State of California. He made a home here with his family. Though he subsequently left the state, his dependent children remained,

and he himself returned time and time again. Of more importance

is his own unabashed recourse

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Hanson vs Denckla (1958), 357 U.S. 235, 253, 78 S.Ct. 1228, 1 2 L.Ed.2d 1283, is perhaps the most restrictive application of the principle of minimum contacts. Wright & Miller, 4 Fed. Proc. & Proc. § 1067, pp. 237-241. The Supreme Court there said: "[Tit is essential in each case that there be some act by which the defendant purposefully avails himself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." Defendant did precisely that when, in filing action No. 74839 in the Santa Barbara Superior Court, he committed the tort leading to the judgment now sued upon.

# Manner of Service

Rule 4(e), F.R.Civ.P., by language added in 1963, reads in part:

"\* \* \* Whenever a statute or rule of court of the state in which the district court is held provides (1) for service of a summons \* \* \* upon a party not an inhabitant of or found within the state, \* \* \* service may \* \* \* be made under the circumstances and in the manner prescribed in the statute \* \* \*." Calif.Code Civ.Proc., § 415.40 provides for service of summons on such a party, as follows:

"A summons may be served on a person outside this state in any manner provided by this article or by sending a copy of the summons and of the complaint to the person to be served by any form of airmail requiring a return receipt. Service of a summons by this form of mail is deemed complete on the 10th day after such mailing."

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Service of summons in accordance with Section 415.40. supra, is "of unquestioned validity." Wright & Miller, 4 Fed. Prac.& Proc. § 1074, p. 294, fn. 97, citing Hess vs Pawlost i (1927), 274 U.S. 352, 47 S.Ct. 632, 71 L.Ed. 1091.

Form of Summons ...

"\* \* \* When, under Rule 4(e), service [of summons] is made pursuant to a statute or rule of court of a state, the summons \* \* \* shall correspond as nearly as may be to that required by the statute or rule." Rule 4(b), F.R.Civ.P.

"Thus where a valid state statute or rule of court is utilized under Rule 4(e), the state form for the summons, or notice, or order in lieu of summons is to be followed as nearly as may be practicable under the circumstances of the case. Where state practice under such statute or rule, for example, calla for substituted personal service to be made outside the state, or for service by mail or by publication, the state form for such process is to be followed." 2 Moore's Fed. Prac. 4 4.07121 p. 1000.

The form of summons served pursuant to state statures is prescribed by Calif. Code Civ. Proc., § 412.20, and the form attached hereto corresponds thereto as nearly as may be.

# Transmittal of Summons to Plaintiff's Counsel

Rule 4(c), F.R.Civ.Proc., provides without qualification that all process shall be served by the U.S. marshal or someone specially appointed for the purpose. Rule 4(e), however,

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authorizes service out of state in the manner prescribed by state law. These provisions have been judicially reconciled; "[W]hen the manner of service under Rule 4(d)(7) or Rule 4(e) is other than personal --- for example, service by mail or by publication --- the courts have developed an exception to kele 4(c), which has been accepted by the Advisory Committee, to time effect that a marshal or any other person authorized to make service under Rule 4(c) need play no part in the process." Wright & Miller, 4 Fed. Prac. & Proc. § 1092, p. 354. In such cases, service may be made pursuant to state law. Ibid., § 13.2. See also, 2 Moore's Fed. Prac. ¶ 4.08. In California, summeron may be served by anyone 18 years of age who is not a party to the action. Calif.Code Civ. Proc., § 414.10.

The exception to Rule 4(c) logically must extend to the related provision of Rule 4(a), which directs the clerk, upon the filing of a complaint, to "forthwith issue a summons and deliver it for service to the marshal or to a person specially appointed to serve it." Here, it is contemplated that plaint "" counsel or his employee will effect service by mail. There is no reason, under these circumstances, for summons to be diverte! to the marshal. In the interests of expeditious prosecution of the action, summons ought to be issued and forwarded directly to plaintiff's counsel.

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Respectfully submitted,

Attorneys for Plaintiff 6 7 8 UNITED STATES DISTRICT COURT FOR THE 9 NORTHERN DISTRICT OF CALIFORNIA 10 11 JEAN NEAL: 12 Plaintiff, 13 Civil No. C-71 1447 AJZ ORDER FOR ISSUANCE OF SUMMONS 14 STANLEY V. TUCKER FOR SERVICE OUT OF STATE 15 Defendant. 16 17 Upon the application of plaintiff JEAN NEAL for an order for issuance of summons for service outside of this State, and 18 good cause therefor appearing from the affidavit and points and 19 authorities submitted in support thereof, 20 21 IT IS ORDERED that the Clerk of the Court forthwith issue summons herein and mail the same to plaintiff's counsel of 22 record for service upon defendant in a manner authorized by 23 Rule 4(e), Federal Rules of Civil Procedure. 24 25 Dated: September /, 1971. 26 27 28 29 United States District Judge 30 32 -U 16-

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# UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL,

Plaintiff,

NO.

-vs-

STANLEY V. TUCKER,

Defendant.

CIVIL

ON STATE JUDGME

- 1. Plaintiff is a citizen of the State of Collinand defendant is a citizen of the State of Connection matter in controversy, exclusive of interest and costs \$10,000.00.
- 2. On April 23, 1969, in an action in the Sumof the State of California, County of Ventura, judgment given in favor of plaintiff and against defendant in \$20,723.61.
- 3. No part of the judgment has been paid.

  WHEREFORE, plaintiff demands judgment against ...
  for the sum of \$20,723.61, interest, and costs.

EXHIBIT "D"

Attorney for Plaintil 621 East Main Street P. O. Box 109

ERT R. ANDERSON

Santa Paula, Californi.

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-0 1/

UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

STANLEY V. TUCKER.

C. A. No H-8

JEAN NEAL, ROBERT R. ANDERSON, and ANDERSON & ANDERSON, etc.

PLAINTIFF's MOTION PURSUANT TO FRCP RULE 60 (a) and (b) FOR ORDER VACATING RULING OR JUDGMENT OF MARCH 5, 1974 GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT.

NOTICE: DEFENDANTS HEREIN PLEASE TAKE NOTICE that on the first available motion day Plaintiff will move the above entitled court in the South Courtroom, 450 Main St, Htfd, Conn for its order vacating the Order or Judgment of March 5th, 1974 and for its order granting Plaintiff's motion For Summary Judgment and for such other or further order as to this court may be just under the circumstances. MOTION: This motion will be based upon the grounds of surprise and fraud as set forth below and on error in the ruling or judgment and upon all of the grounds and exhibits and upon the brief annexed to Plaintiff's Motion . For a New Trial of fame date and upon all pleadings and documents on file herein.

Certificate of Service By Mail

I, STANLEY V. TUCKER, hereby certify that on the 10th day of March 1974 I served the above notice of motion, brief, motion and annexed EX A, Complaint, on Defendants herein by mailing a copy postage prepaid air mail addressed:

Jean Neal 621 E. Main

Robert R. Anderson 621 E. Main Santa Paula Cal Santa Paula Cal

Anderson & Anderson 621 E. Main Santa Paula, fAlif

## PLAINTIFF'S BRIEF IN SUPPORT OF FRCP RULE 60 MOTION

I: ATTORNE Y ANDERSON EIGHT PAGE EX PARTE APPLICATION TO
JUDGE ZIRFOLI UNDER RULE 4 (e) FOR PERMISSION TO FOLLOW
CALIFORNIA'S LONG ARM STATUTE REMAINDED CONCEALED IN
CALIFORNIA FROM THIS PLAINTIFF UNTIL AFTER JUDGMENT
WAS RENDERED IN CALIFORNIA ADVERSE TO THIS PLAINTIFF
AND CONSTITUTED EXTRINSIC FRAUD AND SURPRISE PREVENTING
THIS PLAINTIFF FROM A PROPER DEFENSE IN CALIFORNIA

The brazen nature of Attorney Andersons eight page ex parte application to Judge Zirpoli has been explored under Point III of Plaintiff's motion for new trial incorporated herein by reference.

"In respect to fraud and misrepresentation in setting aside a judgment there must be clear" and convincing proof:"

Atchison T & S F Ry Co v Earrett 246 F 2d 846

This clear and convincing proof is found in examination of the complaint served upon this plaintiff in the California district court action, annexed hereto as Ex "A". This complaint is barren or void of any jurisdictional statment other than as to citizenship. Compare this with EX Bl- B8 annexed to Plaintiff's Motion For a New Trial and incorporated herein where "EX Parte" Anderson for 8 pages promotes to Judge Zirpoli the long arm jurisdictional statement that was kept concealed from this Plaintiff for over a year.

"Party who moved to vacate as void for lack of notice judgment against her was not required to show a meritorious defense"

Hicklin v Edwards 226 F 2d 410

- II. PLAINTIFF FURTHER CLAIMS AS MAJOR EFFOR THE FOLLOWING PARTS OF THE OPINION OR RULING OF MARCH 5, 1974
  - 1. Starting with Page 9 of the ruling Plaintiff contends the court erred in that the liens were recorded in violation of FRCP Rule 4 c by being improperly recorded by Anderson( See Brief Paint IV annexed to Motion For New Trial)
  - 2. Plaintiff contends the liens prematurely recorded altho admittedly he did not file notice of appeal within time allowed he did file application for extension of time to file notice of appeal and

thus properly started appellate process running.

3. Plaintiff contends that the California District Court

lacked in personam jurisdiction because both Plaintiff's Affidavit & Andeerson's Affidavit concurred in a lack of "activities" within the meaning of all of the decisions of all of the courts of appeal cited in brief of Plaintiff in support of summary judgment.

4. The opinion or ruling page 13 infra regarding res judicata is in error as due to fraud and surprise in that Defendants jurisdictional basis was concealed from Plaintiff until after adverse judgment was entered in the California Court Plaintiff in this court is not barred from asserting for the first time.

of FRCP Rule 4c and lack of personal "actifity" basis.

Nelson v Swing-A-Way Mfg 266 F 2d 184

"The court must look to the pleadings & examine the record to determine the questions essential to the former decision."

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"matters not decided as essential are not foreclosed."

- 5. The opinion page 16 is clearly wrong in equating 36 pro se law suits with a single tort because:
- a. Many states have adopted one tort as a jurisdictional basis and have been upheld by the courts
- b. No state has adopted litigation as jurisdictional basis.
- c. Cases cited show appellate courts rejecting litigation as a jurisdictional basis.
- d. Applying to the courts for redress of wrongs is a federally protected right and violation or punishment of this right by California via long arm jurisdiction would invade a federally protected right and have a "chilling" affect. USC Amend One. "Congress a shall make no law..

abridging. the right of the people to petititon the government for a redress of grievances.

The 14th Amendment makes this binding on all the states.

e. Both: attorney Anderson In suport of his long arm jurisdiction & this court in its opinion failed to cite a single citation in support.

Plaintiff requests this court to re-examine claimed error as further grounds for relief.

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STANIEY V. TUCKER

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• 9	UNITED STATES DISTRICT COURT FOR THE		
10	NORTHERN DISTRICT OF CAR TOWN		
11	JEAN NEAL,		
12	Plaintiff, }		
13	-vs- NO		
14	STANLEY V. TUCKER,		
15	COVET A TAY		
16	Defendant. ON STATE JUDGMENT		
17	<b>,</b>		
18	1. Plaintiff is a citizen of the State of California,		
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	matter in controversy, exclusive of interest and costs, exceeds		
. 20	\$10,000.00.		
<b>1</b>	2. On April 23 1060		
22	of the State of California County of the		
23	of the State of California, County of Ventura, judgment was survey		
24	given in favor of plaintiff and against defendant in the sum of 20,723.61.		
25			
26	3. No part of the judgment has been paid.		
	Plaintiff domand.		
2/	or the sum of \$20,723.61, interest, and costs.		
- 11	and costs.		
29	01/01		
30	ROBERT R. MOURENT.		
31	Attornov for pr		
32	Attorney for Plaintiff 621 East Main Street P. O. Boy 100		
	P. O. Box 109 Santa Paula, California 93000		
	v 5-		

## UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

STANLEY V. TUCKER.

Plaintiff,

-VS-

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JEAN NEAL, ROBERT R. ANDERSON, and ANDERSON & ANDERSON, etc.,

Defendants.

Civil Action No. H-8

DEFENDANTS' BRIEF IN OPPOSITION TO PLAINTIFF'S MOTIONS FOR NEW TRIAL AND TO VACATE JUDGMENT

March 18, 1974

Defendants oppose Mr. TUCKER's motions to vacate the order for summary judgment, or alternatively to grant him a "new trial," for the reasons given by the court in its memorandum of opinion of March 5, 1974. So far as Mr. TUCKER is saying things in these motions which he has not said before, defendants add the following:

(1) Unveiled for the first time in this lawsuit is Mr. TUCKER's contention that a defendant has a constitutional right to be heard on, or to try to prevent, the issuance of summons. "Upon the filing of the complaint the clerk shall forthwith issue a summons and deliver it for service to the marshal \* \* \*." Rule 4(a), FRCivP. When a clerk unfamiliar with the effect of Rule 4(e), FRCivP, declines to issue a state form of summons for service in accordance with state law, the plaintiff must apply to a judge of the court for an appropriate order. The application is ex parte, for the defendant is not yet before the court either by

appearance or by service of process. The judge's order merely compels the performance of the clerk's ministerial duty and is without prejudice to the defendant's timely objection to jurisdiction once the court has asserted it. Mr. TUCKER's lamentations about "fraud" and "surprise" do not disclose if it was his own activities in California that allegedly were "concealed" from him, or if it was the law constituting those activities a jurisdictional basis. Mrs. NEAL's California complaint (a copy of which is attached to one of the present motions) was sufficient to remind Mr. TUCKER, perhaps acutely, of the state court action in which a jury had passed upon his malicious prosecution of her. Beyond that he could have made discovery. Thus informed or informable, he challenged the court's jurisdiction at every chance. Mrs. NEAL answered those challenges with the facts and the law which he now claims were withheld from him. 

Mr. TUCKER's own faith in his assertion that there is a constitutional right to oppose the issuance of summons would have been shown to better advantage if he had accorded these defendants an opportunity to litigate the issue in this action.

- (2) Persisting in a collateral attack upon the California judgment already thwarted by this court's application of the doctrine of res judicata, Mr. TUCKER further contends that the California summons could be validly served only by the U. S. Marshal. He cites the recent decision of the Ninth Circuit in Veeck vs Commodity Enterprises, Inc. (1973), 487 F2d 423. That case, however, simply follows the settled reconciliation of the provisions of Rule 4(c), (d)(7), and (e), FRCivP. Construed together, they require the marshal to make only personal service of federal process under state law, not substituted or constructive service. The distinction is explained at length in 2 Moore's Federal Practice 1 4.08.
  - (3) Contrary to Mr. TUCKER's assertion that judgment liens

must be recorded by the marshal, the state statute which creates the liens neither says nor implies any such condition of validity. It provides that "Any suitor having an unsatisfied judgment may cause to be recorded \* \* \* a certificate signed by [himself], his attorney or personal representative \* \* \*." Conn Gen Stats Ann \$ 49-44.

(4) Finally, Mr. TUCKER contends that while a single tort within the forum is sufficient for local jurisdiction, 36 lawsuits are not, even when one of the suits is itself the tort of malicious prosecution for which the subject action is brought. As a defiance of logic, the argument is nonpareil.

WHEREFORE, defendants waive oral argument on plaintiff's motions and pray that they be denied.

Respectfully submitted,

ROBERT R. ANDERSON

Defendant Pro Se 621 East Main Street

P. O. Box 671

Santa Paula, California 93060

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## UNITED STATES DISTRICT COURT DISTRICT OF CONNECTIOUT

STANLEY V. TUCKER

-vs-

: C. A. NO H-8

JEAN NEAL, ET AL

PLAINTIFF'S SUPPLEMENTAL REPLY BRIEF TO
DEFENDANT'S BRIEF IN OPPOSITION TO PLAINTIFF'S MOTIONS FOR NEW
TRIAL AND TO VACATE JUDGMENT PER RULE 60B

To clarify issues in relation to latest applicable law Plaintiff files and serves this Supplemental Reply Brief.

INTRODUCTION: Attorney Anderson's "Brief in Opposition" fails to provide a single citation to support his "litigation activity" basis just as his Motion For Summary Judgment failed also to provide a single citation in support of his argument.

I. This Court or Any Court Reviewing Prior Decisions Must
Apply Later or Latest Legal Precidents

The 9th C. A. decision in Veek v Commodity Enterprises, Inc.

487 F 2d 423, was not available at time Plaintiff filed his

Motion For Summary Judgment, yet mandates today this court

must reverse its ruling on grounds that the California District

Court making the judgment, being litigated herein as to validity was without jurisdiction due to lack of service by the

U. S. Marshall as required Rule 4 (c). FRCP.

The decision in <u>Spaight v Slater</u>, <u>Ok S Ct 1098</u>, Feb 27, 1974 is applicable. In Speight, supra, a three judge court dismissed a federal action. In another case subsequent to dismissal, <u>Sanders v State of Georgia</u>. SE 2d \_\_\_\_, the Georgia Supreme Court upset the statute involved on constitutional grounds. The U. S. Supreme Court ruled.....

"We therefore vacate the judgment below and remand to the District Court for reconsideration in light of the decision of the Georgia Supreme Court in Sanders v State of Georgia,"

So too this Court is asked to reconsider and to vacate its decision on Summary Motions and to reverse and to grant Plaintiff's Motion on grounds of Veek, supra and other good grounds herein.

II. THE "FULLEST PERMISSIBLE CONSTITUTIONAL LIMITS" DUE PROCESS CONCEPT LEGISLATED IN ILLI 'NOIS AND EXPLAINED BY THE ILLINOIS SUPREME COURT MAKES THE CALIFORNIA JUDGMENT VOID FOR LACK OF JURISDICTIONAL ACTIVITY ON DUE PROCESS GROUNDS

Illinois was the first state to adopte comprehensive "long arm" statute in 1957 and in the words of the Illinois Supreme Court that statute was an application of jurisdiction to the "fullest permissible constitutional limits." Wright & Miller Federal Practice & Procedure Volume 4 Section 1068. Nelson v Miller 143 N E 2d 673.

Section 17 of the Illinois Practice Act is repeated:

- "(1) Any person, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts hereinafter enumerated, thereby submits a said person, and if an individual, his personal representative, to the jurisd iction of the courts of this State as to any cause of action arising from the doing of any of said acts:
  - (a) The transaction of any business within the state
  - (b) The commission of a tortious act within this state
  - (c) the ownership, use, or possession of any real estate situated in this State
  - (d) Contracting to insure any person, property or risk located within this State at the time of contracting"

May this court note that Anderson's activity basis, litigation in random courts over years with different people, concealed from Plaintiff in the California action by fraud and fully developed in this court for the first time, is outside the scope of the "fullest permissible constitutional limits"

statute of the state of Illinois.

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Nelson supra P 679:

"Sections 16 and 17 of the Civil Practice Act reflect a conscious effort to assert jurisdiction over nonresident defendants to the extent permitted by the due-process clause. Cleary and Seder, Extended Jurisdictional Bases. 50 N.U.L.R 599. 0' Connor & Goff, Expanded Concepts of State Jurisdictional Bases 31 N.D. Law 223"

The Nelson case, supra, construed the International Shoe

v Washington 326 U. S 310 decision that led to the great

expansion of long arm statutes by the states.

Nelson at P 677:

"International Shoe 326 at P 316: The court court added that the demands of due process "may be met by such contacts with the state or the forum as make it reasonable, in the context of our federal system of government, to require the defendant to defend the particular suit which is brought there. note: underline added.

The clear language of International Shoe construed is to the effect that the "contacts" must be related to the particular suit being brought. Random or solid streams of "activities" not related to the particular suit would not be a permissible activity basis on constitutional grounds. This is brought out in more details in cases below.

The jurisdictional argument advanced by Attorney Anderson and adopted by this Court, namely that random litigation over many years in California with different people over different issues and in various courts can be an jurisdictional basis because there is a judgment debt claimed by Jean Neal against this Plaintiff would violate the International Shoe argument as followed in Nelson, supra. It is most difficult for this Plaintiff to see how Attorney Anderson could fit litigation hundreds of miles from Jean Neal and carried out without the participation or even knowledge of Jean Neal could fit the test

of International Shoe, namely that the contacts must: "... make it reasonable... .. to require defendant .... ... to defend that particular litigation" Attorney Anderson's "litigation activity " basis, concealed by fraud in the California court, violates International Shoe and exceeds the "fullest permissible constitutional limits". THE RULING SHOULD BE REVERSED. III. THIS COURT EXCEEDED ITS JUDICIAL JURISDICTIONAL LIMITS AND "LEGISLATED" IN ADOPTING ANDERSONS "LITIGATION ACTIVITY" BASIS The UNITED STATES SUPREME COURT decisions make clear that the establishment or expansion of jurisdiction is limited to a legislative function and outside the scope of the District Courts. As the U. S. Supreme Court said in Missouri Pac RR Co v Clarendon Boat Oar Co, 257 U.S. 533 (1922) "provisions for making foreign corporations subject to service in the state is a matter of <u>legislative discretion</u>, and a failure to provide for such service is not a denial of due process. note : underline added. The 2nd C. A. emphasized that every circuit has made rulings limiting jurisdiction to within the legislative limits.

Arrowsmith v. Unitee Press International 320 Fed 219 (1963)

The Second Circuit stated: "This conclusion, that a federal

-X 4-

district court will not assert jurisdiction over a foreign corporation in an ordinary diversity case unless that would be done by the state court under constitutionally valid state legislation in the state where the court sits, has been reached in almost every circuit that has considered the isse See Bowman v Curt G. Joa Inc 361 F2d 706 4th C A 1966; Westcott-Alexander Inc v Dailey, 264 F2d 853 (4 C. A 1966)

The Fourth Circuit made this limitation crystal clear in 1968

Beaty v M. S. Steel Co 401 F 2d 157

P 161: "Thus, it is clear that at least where the legislature has acted, even though the statute may not go the limits of due process, the courts of a state may not go further and assert jurisdiction over persons not embraced within that legislation"

This Court sitting in Connecticut cannot "legislate" for
the State of California. Its decisions must be limited by
California legislature and if the statute is vague or uncertain then this court must declare the California long arm
statute void and unconstitutional, offensive to due process.

By no stretch of the imagination is this court empowered
in light of the above to equate "litigation" in California,
a federally protected right, with a "tort" to create for
Attorney Anderson brand new jurisdictional basis in violation
of the federal constitution.

-X 5-

REVERSE ITS HOLDING THAT JURISDICTION MAY BE BASED ON
"LITIGATION ACTIVITY" IN CALIFORNIA

A. Attorney Anderson's Motion For Summary Judgment is Barren of a Single Citation to Support Litigation as An Activity

B. Attorney Anderson Brief in Opposition to Motions for New Trial and To Vacate Judgment (Rule 60b) Is Barren of a Single Citation to Support Litigation As an Activity

C. This Court's Ruling on Motions For Summary Judgment is Barren of a Single Citation to Support Litigation as Activity

D. Plaintiff's Brief in Support of Summary Judgment Listed Cases Never Reversed That Litigation Is Not an Activity

1. Titus v Superior Court 1972 100 Cal Rpt 477

2. Collar v Peninsular Gas 295 S W 2d 88

3. United Mercantile Agencies v Jackson 173 SW 2d 881

E. THE 4th C. A. HAS EXPLORED AND REJECTED A MULTIPLICITY OF LITIGATIONS AS ACTIVITY BASIS 1966

Dragor Shipping Corp v Union Tank Car Co 361 F 43

P 44: "participation in litigation in courts of state does not constitute doing of business within state so as to subject litigant to in personam jurisdiction of courts in state"

P 45 "Dragor's sole contention on appeal is that the Arizona District Court's assumption of jurisdiction over the person of Dragor and thereby over the subject matter of this action deprived Dragor of due process, and is therefor unconstitutional"

This court is reminded of the Plainiff's contentions herein being identical to those of Dragor in Arizona.

The Dragor cases involved extended litigation in the courts of Arizona between the same parties. A stipulation was signed for settlement payment of \$1,000,000 and the federal cases dismissed. Payment was not made. New suit was started based on prior litigation in Arizona. The 4th C. A. stated that the prior litigation was without constitutional significance lacking necessary constitutional connections. See McGee supra

### Dragor P 48: -X 6-

[4.5] In McGee, supra, no activity apart from or antecedent to the contract was relied upon by the court in helding that the contract sued upon was sufficiently connected with the forum state to satisfy the due process requirements. It would not be correct, herever, to say that such activity will never be relevant in establishing the necessary minimum con-

tact. A contract upon which suit is brought may bring into issue prior dealings between the parties in the forum state, and there dealings may well provide a basis for jurisdiction. But where the agreement sued upon is in the nature of a settlement of existing claims, and the only issues in sented relate to its breach and not its validity we wish the anticedent dealings are thou constitutional significance as identify the effects of the necessary substantil to use in.

[6-9] The execution and demery of inch the New York to 1 so event, have significance shale and laiding concerns activity, in the forum tate. The stipulations dismissing the Acizona cuits were executed in New York but filed in Arizona. Such filing was long prior to September 30. 1964, when, Union asserts, Dragor committed the breaches sued upon. The filing of these dismissels constitutes an isolated in onsequential act having no legal significance in this law suit. It does not provide a sub-tantial connection of the kind referred to in McGee.15 Attorney Anderson's "broad brush" litigation claim covering many many years, over widely dispersed court systems with Afferent parties and different issues mostly unknown o Jean Neal fits the Dragor case ..... "It does not provide a substantial connection of the kind referred to in McGee" V. THE MOST RECENTLY REPORTED CASE REJECTS LITIGATION AS AN "ACTIVITY" See the March 25th, 1974 Federal Supplement Page 1366 Munchak Corp v Riko Enterprises Dec 21, 1973 USDC N. Carolina Munchak, Supra rejected litigation as a permissible constitutional jurisdictional basis P 1366: "presence in a state solely to participate in litigation is not, by itself, sufficient connection with that state to make a person amenable to the state's jurisdiction" The Munchak Plaintiff argued that the defendant "controlled" the litigation thus there was neces ary "activity". See how this claim was rejected in North Carolina" P 1369 [2] Plaintiff contends that defendant controlled the defense of the earlier action brought in this Court by plaintiff against Cunningham, including the payment of costs. Although defendant denies that it "controlled" the litigation, there is no dispute as to the defendant's participation in that action on Cunningham's behalf. In either event, pres--X 7ence in a state solely to participate in litigation is not, by itself, sufficient connection with that state to make a person amenable to the state's jurisdiction. Sec Dragor Shipping Corp. v. Union Tank Car Company, 361 F.2d 42 9th Cir. 1966)

Anderson's claim that litigation in California is an activity violate the federal constitution, McGee, Supra, and all known state and federal cases. There is no rational relationship between Jean Neal's claimed state court judgment debt and random litigation over years apart and hundreds of miles apart in different court systems with different litigants and with different claims or issues all unknown to Jean Neal.

At P 1374 the Munchak supra case develops the stream of activity concept out of which a tort flows directly related to the stream of activity. This is not so in this case. The litigations were random and unrelated to Jean Neal's alleged debt.

Munchak P 1374: "True, the defendant engages in a widely dispersed entertainment activity. However, unlike the "stream of commerce" fact setting, the injuries alleged in this lawsuit did not result from this activity of the defendant. The agent of the harm was not the defective product"

> "Nor can this case be brought within constitutional limitations when the unrelated activities of the defendant in this state are considered"

Jean Neal's alleged injuries did not result from the varied and random litigation described inaccurately by Robert Anderson but instead consist of a money debt. Truely this record is barren of a single citation to support the contentions of Attorney Anderson.

- A SERIES OF DECISIONS IN THE CIRCUIT COURTS OF APPEAL VI MAKE BINDING LAW THAT THE CALIFORNIA JUDGMENT WAS VOID FOR LACK OF JURISDICTION DUE TO LACK OF SERVICE BY U. S. MARSHALL FRCP 4c. FRCP 64.
- 1. 5th C. A. USA ex rel tanos v St Paul 361 F 2d 838 Cited in Plaintiff'a Brief on Motion For New Trial held to the effect that under Rule 64 the federal rules had statutory effect and the Federal Marshall must make service FRCP 4c.

- P 962: We are of the opinion in supplementary proceedings FRCP with respect to the method of service and to the person who may make service control, rather than general provisions of state's practice and proceedure"
- 3. 9th C. A. <u>Veek v Commodity Enterprises 487 F 2d 423 (1973)</u>
  Cited in Plainitff's brief on Motion For New Trial.

  Holds that a district Court in California acting under the same long arm statute as Attorney Anderson lacked jurisdiction because service was nat made under FRCP Rule 4c.
- 4. USDC SD-NY Sappia v Lauo Lines 1955 130 F Supp 810

  Plaintiff's attorney made service under NY

  civil practice act... held void as service

  must only be made by U. S. Marshall FRCP 4c.

Contrary to Anderson's Brief P 2 ... 2 Morre's Federal Practice S 4.08 does not grant to Anderson a special dispensation from the above limitations but rather is devoted to a speculative historical tour of the evolution of the rules and treats cases made and overruled in time. Clearly read in light of latest decisions Moores is consistent with Veek supra and other cases cited herein.

Rumsey, Supra, quotes Moores with authority to the effect that FRCP must be applied at P 962:

"The FRCP have the force and effect of statute. Mr Moore in his work on Federal Practice 2nd Ed Vol 7 Ch 69 S 69:04 states:

Rule 69, supra, states that any statute of the U.S. governs to the extent it is applicable. A Federal Rule, which has statutory effect, will also govern."

Blair v Bank of American 112 F 2d 247 impliedly held to the same effect"

VII. THE DECISIONS CITED UNDER POINT VI SUPRA MANDATE ANDERSON'S SELF-HELP IN ILLEGALLY RECORDING OF JUDGMENT LIENS IN CONNECTICUT TO ER VOID AS VIOLATIVE OF FRCP RULE 4c, 64 and 69

This Court must be mindful that due to Appellate decisions mandating that the Federal Rules have "statutory effect" not only was the California judgment void for want of jurisdiction but also the judgment liens were improperly and illegally recorded in violation of FRCP 4c, 64 and 69.

USA ex rel Tanos v St Paul 361 F 2d 838: Upheld quashing of service of garnishment under state law on grounds FRCP were statutory and garnishment must be by federal marshall."

# RULE 69 EXECUTION

a. In General. Process to enforce a judgment for the payment of money shall be a writ of execution, unless the court directs otherwise. The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of execution shall be in accordance with the practice and procedure of the state in which the district court is held, existing at the time the remedy is sought, except that any statute of the United States governs to the extent that it is applicable.

In Tursey, supra, in post judgment supplemental proceedings just as Attorney Anderson claims to be conducting in this case in Connecticut the 10th C. A. held that FRCP rule 69 was statutory and service under a state staute was invalid in violation of FRCP 4c requiring service by U. S. Marshall.

VIII. IF THE CALIFORNIA COURT HAD JURISDICTION THEN SURELY THE STATUTE OF LIMITATIONS PROTECTED THIS PLAINTIFF

This Court's ruling on motions for summary judgment may have overlooked argument on statutes of limitations in this Plaintiff's brief. Jean Neal bases her claim on a tort allegedly taking place in California in 1965. See

Conn G. S. 52-577 -X 10<sup>2</sup> year limit on tort
Calif CCP 339 (1) 2 year limit on tort

## IX. ATTORNEY ANDERSON IS PRACTICING LAW ILLEGALLY IN THIS COURT, SEEKING TO IMPOSE A FRAUD, THE SAME FRAUD IMPOSED IN CALIF.

That the federal rules have statutory effect has been brought out above, see Sumsey, supra, USA ex rel Tanos, Sappia v Lauro Lines, etc.

FRCP 83: "Each District court...may make and amend rules governing its practice."

Thus local rules by operation of: Rule 83 have "statutory effect.

Local Rule 2(c): requires a local member of the bar to be designated or alternately a local address maintained or alternately the clerk must be designated to accept service of papers.

Yet Attorney Anderson is clearly illegally acting as attorney for Jean Neal. See Ex "A" annexed hereto where in respect to liens at issue herein he signs as....

"...Attorney For Jean Neal...."

Anderson's acts herein in fraudulent concealment of his jurisdictional basis in California is no different from the recently publicized case in the USDC- Colorado where five U. S. ATtorneys were summarilly suspended from practice in the federal courts and Orders to Show Cause in re civil and/or criminal contempt where issued where these U. S. Attorneys withheld from the U. S. Marshall the address of a vital witness. SO TOO ATTORNEY ANDERSON SHOULD BE SUSPENDED FROM PRACTICE FOR HIS FRAUDS AND CITED FOR CIVIL AND /OR CRIMINAL CONTEMPT.

X. DUE TO EXTRINSIC FRAUD PRACTICED BY ANDERSON IN THE CALIF.
COURT THE PRINCIPLE OF RES JUDICATA IS NOT APPLICABLE

This Plaintiff in the California case relied upon the jurisdictional statement in the complaint annexed as EX D to Motion to New Trial. This is totally barren of the "litigation activity" basis Anderson secretly ex parte promoted in Calif and kept concealed for about two years until he again used it with this court.

"An essential element of a fraud, is deception of plaintiff and reaonsable reliance theeron by plaintiff."

Merritt-Chapman v Elgin Coal 358 F. Supp 17

"Constructive fraud does not require an intent to deceive, and liability for constructive fraud may be based on negligent or even innocent mis-representation"

U. S. Fibres v Proctor 358 F Supp 449

XI. ANDERSON'S EX PARTE SECRET APPLICATION VIOLATED THE STATUTORY RULES OF PRACTICE AND VIOLATED THIS PLAINTIFF'S CONTITUTIONAL RIGHTS TO DUE PROCESS.

Anderson violated the following statutory rules thus denying to Plaintiff in California due process of law:

-10-

FRCP Rule 5: Requires all motions to be served on parties

FRCP Rule 7: Requires all applications to court to be on motion (required service rule 5) only exceptions Rule 6, time extensions, and forma pauperis.

FRCP Rule 8: Requires all pleadings to contain a proper jurisdictional statement. In this action Anderson served a single sentence diversity jurisdictional statement which this plaintiff opposed on those grounds in the California court. Years later this plaintiff learned for the first time that Anderson in California used a "litigation activity" jurisdictional statment which he now uses in this court. The fraud, surprise and deceit used on this Plaintiff more than justifies a new trial, it justified vacating as void the California judgment and disbarring Anderson from practice in any federal court and further citing Anderson in for civil and / or criminal contempt of court charges.

RESPECTFULLY SUBMITTED:

-X 13-

BY

STANLEY V. TUCKER PLAINTIFF

ANDERSON & ANDERSON ATTORNEYS AT LAW 621 EAST MAIN STREET POST OFFICE BOX 109
PHONE (805) 525-5564 - 647-6377
BANTA PAULA, CALIFORNIA 93060

Space below for filing stamp only)

Attorneys for JEAN NEAI

### RELEASE OF JUDGMENT LIEN

THIS IS TO CERTIFY that the certain judgment lien in favor of JEAN NEAL of San Jose, California, against STANLEY V. TUCKER of Hartford, Connection recorded September 15, 1972, in the Hartford Land Records, Wolume 1325, page 341, upon real property located at and known as 38 S. Whitney Street, Town of Hartford, County of Hartford, State of Connecticut, more particularly described in said judgment lien, IS HEREBY RELEASED AND DISCHARGED.

DATED at Santa Paula, California, this 30th day of June 1973.

Attorney for JEAN NEAL

ANDERSON & ANDERSON Attorneys at Law 621 East Main Street P. O. Box 671 Santa Paula, California 93060

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# UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

STANLEY V. TUCKER,

Plaintiff,

Civil Action No. H-8

REQUEST FOR ADMISSIONS

JEAN NEAL, ROBERT R. ANDERSON,
and ANDERSON & ANDERSON, etc.,

Defendants.

Defendants request that plaintiff admit the following matters within 30 days of service of this request, in the manner prescribed by Rule 36(a):

- 1. You were the defendant in an action entitled JEAN NEAL, Plaintiff, vs STANLEY V. TUCKER, Defendant, in the U. S. District Court for Northern California, No. C 71-1447 AJZ.
- 2. The court therein made an "Order Granting Plaintiff's Motion for Summary Judgment" (hereinafter called "the summary judgment"), filed July 21, 1972.
- 3. The document attached to this request as Exhibit A is a true copy of the summary judgment.
- 4. No appeal was taken from the summary judgment within 30 days after its filing.
- 5. No appeal had been taken from the summary judgment as of August 28, 1972.

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# UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL,

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Plaintiff,

vs.

No. C-71-1447 AJZ

STANLEY V. TUCKER,

Defendant ..

#### ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

This cause came on regularly for hearing on May 22, 1972, upon plaintiff's motion for summary judgment, no one appearing for either party, and the matter being submitted. Upon consideration of the pleadings and affidavits on file, the court concludes that there is no genuine issue as to any material fact herein and that plaintiff is entitled to judgment as a matter of law. Accordingly, the plaintiff's motion for summary judgment is granted.

Based on the foregoing order, IT IS HEREBY ORDERED,

ADJUDGED AND DECREED that plaintiff Jean Neal recover from

defendant Stanley V. Tucker the sum of \$20,723.61, with interest of 7 per cent per annum thereon from April 23, 1969 in

the further sum of \$4,417.31, for a total judgment of

\$25,141.70, and plaintiff's costs.

Dated: July 29/972

United States District Judge

PPI-Bandstone 2-18-71-76M-6096

EXHIBIT A

¥. 3-

Action of the

ORIGINAL FILED

OCT 20 1972

CLERK, U. S. DIST. COURT SAN FRANCISCO

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL,

Plaintiff,

12 vs.

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STANLEY V. TUCKER,

Defendant.

No. C-71-1447 AJZ

ORDER DENYING APPLICATION FOR EXTENSION OF TIME TO FILE NOTICE OF APPEAL

The application for extension of time to file notice of appeal in the above entitled matter is DENIED.

Dated: October 20, 1972

ALFONSO J. ZIRPOLI United States District Judge

-Y L

EILED NOV 3 CHARLES J. ULFERS, CLERK UNITED STATES DISTRICT COURT 8 FOR THE NORTHERN DISTRICT OF CALIFORNIA 10 JEAN NEAL. C 71-1447 AJZ NO Plaintiff. 11 vs. NOTICE OF APPEAL 12 and STANLEY V. TUCKER. 13 DESIGNATION OF RECORD ON APPEAL Defendant. 14 15 NOTICE is given that STANLEY V. TUCKER, DEFENDANT. 16 herein, hereby appeals to the UNITED STATES CIRCUIT COURT 17 OF APPEAL FOR THE NINETH CIRCUIT from the order made and/ 18 or entered herein on or about October 20, 1972 denying 19 Defendant's Application For Extension of Time to file notice 20 of Appeal. 21 22 Dated: October 30th, 1972 23 24 Pursuant to FRAP Rule 10 (b) APPELLANT/DEFENDANT hereby 25 designates the entire record on file including all applications 26 or notices as the record on appeal in the instant action. 27 Dated: October 30th, 1972 28 ertificate of Service By Mail 29 I, STANLEY V. TUCKER, APPELLANT HEREIN, hereby certify that I served the above document upon Plaintiff on October 30, 1972 30 by depositing a true copy thereof in the U.S. mails at Hartford, Conn postpaid air mail and addressed to Plaintiff 31 as follows: Anderson & Anderson 621 E. Main St. 32 Santa Paula, California

-Y 5-

Oct 30th, 1972

Dtd:

EXHIBIT C

MAR 27 1973 1 UNITED STATES COURT OF APPEALS DENNIS R. MATHEWS, CLERK U. S. COURT OF APPEALS FOR THE NINTH CIRCUIT JEAN NEAL, 5 Plaintiff - Appellee, vs. No. 72-3197 STANLEY V. TUCKER, 7 Defendant - Appellant. 10 11 ORDER TRASK and CHOY, Circuit Judges. Before: 12 Appellee's motion to dismiss appeal for lack of juris-13 diction is granted, and the appeal herein is dismissed. 14 16 17 18 19 20 21 22 23 24 United States Circuit Judge 25 -Y 6-26 27

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## United States District Court

#### FOR THE

### NORTHERN DISTRICT OF CALIFORNIA

	CIVIL ACTION FILE NO.	C-71-1447 AJZ
JEAN NEAL, Plaintiff		_c
vs.	· · ·	JUDGMENT W.S.
STANLEY V. TUCKER, Def	endant	HAVE
CERTIFICATION REGISTRATION I	OF JUDGMENT FOR	15291
I, F. R. PETTIGREW	, Clerk of the United Sta	tes District Court for
theNorthern		
do hereby certify the annexed to be a true and		
above entitled action onJuly 21, 1972	2	gment entered in the
and that no notice of appeal from	the said judgment has	s been filed
o in my office and the time to a		
21, 1972, upon the entry of th	ie judgment.	
IN TESTIMONY WHEREOF, I hereunto	subscribe my name and affix	the seal of the said
Court this 28 day of August		
	R. PETTIGREW	
31	A. FEITIGREW	Clerk
By Ata	my A. Oliver	Deputy Clerk
	PIARRY R. OLIVER	
. When no notice of appeal from the judgment has be	son filed insent the matter of	
has been filed in my office and the time for appeal comme	enced to run on finest datal and a	from the said judgment
of the character described in Rule 73(a) F.R.C.P. wa	theed to fun on [theere date] upon th	e entry of [If no motion
	is filed, here insert the fudament	
nature of the order from the entry of which time for an	as filed, here insert 'the judgment',	otherwise describe the
nature of the order from the entry of which time for ap insert "a notice of appeal from the said judgment was	ppeal is computed under that rule.]	If an appeal was taken

COPY

was fired in my office on [insert date] and the appeal was dismissed by the [insert 'Court of Appeals' or 'District

Court'] on [insert date]", as the case may be.

instrument is a true and correct copy JUL 21 1972 of the original on file in my office. ATTEST: 4 CLERK, U. S. DIST. COURT P. R. PETTIGREW. Clerk, U. S / intriet Com 5 SAN FRANCISCO G AUG 28-1972 15291 7 8 UNITED STATES DISTRICT COURT 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA 10 JEAN NEAL. 11 Plaintiff. 12 No. C-71-1447 AJZ 13 STANLEY V. TUCKER. 14 Defendant. 15 ORDER GRANTING PLAINTIFF'S MOTION 16 FOR SUMMARY JUDGMENT 17 This cause came on regularly for hearing on May 22, 1972 18 upon plaintiff's motion for summary judgment, no one appearing 19 for either party, and the matter being submitted. Upon con-20 sideration of the pleadings and affidavits on file, the court 21 concludes that there is no genuine issue as to any material 22 fact herein and that plaintiff is entitled to judgment as a 23 matter of law. Accordingly, the plaintiff's motion for 24 summary judgment is granted. 25 Based on the foregoing order, IT IS HEREBY ORDERED, 26 ADJUDGED AND DECREED that plaintiff Jean Neal recover from 27 defendant Stanley V. Tucker the sum of \$20,723.61, with inter-28 est of 7 per cent per annum thereon from April 23, 1969 in 29 the further sum of \$4,417.31, for a total judgment of 30 \$25,141.70, and plaintiff's costs. 31. Dated: . 32 ALFONSO J. ZIRPOLI

EYLIRIT 6

United States District Judge

# UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

STANLEY V. TUCKER,

Plaintiff,

-VS-

JEAN NEAL, ROBERT R. ANDERSON, and ANDERSON & ANDERSON, etc.,

Defendants.

Civil Action No. H-8

REQUEST FOR ADMISSIONS

Defendants request that plaintiff admit the following matters within 30 days of service of this request, in the manner prescribed by Rule 36(a):

(Note: These requested admissions all relate to proceedings in NEAL vs TUCKER, U. S. District Court, Northern District of California, No. C-71-1447 AJZ, and proceedings taken for its review, viz., NEAL vs TUCKER, U. S. Court of Appeals, Ninth Circuit, No. 72-3197, and TUCKER vs NEAL, U. S. Supreme Court, No. 72-1611. Bracketed numerals indicate the pages at which the document referred to in the requested admission is to be found in the clerk's transcript on the appeal to the circuit court.)

Admit:

1. That Exhibit A, attached hereto, is a true copy of a special appearance you filed in the district court.

2. (a) That you filed a motion in the district court to dismiss the action on the ground, among others, of "2. Lack of 2 'personal' jurisdiction." [17] 3 (b) That your affidavit in support of the motion to dismiss stated in part: "1. That I am Defendant and since November 5 1961 I have maintained residence continuously in the State of 6 Connecticut and have not visited California since about June 1969 7 and have not owned real property in the state of California since 8 about July 1965." [18] 9 3. That Exhibit B attached hereto is a true copy of the 10 order of November 16, 1971, denying your motion to dismiss. 11 4. (a) That plaintiff JEAN NEAL filed a motion for 12 judgment by default, to be heard December 27, 1971. [61-67] 13 (b) That Exhibit C attached hereto is a true copy of 14 a telegram you sent to the court. 15 (c) That Exhibit D attached hereto is a true copy of 16 your motion to set aside entry of default. 17 (d) That Exhibit E attached hereto is a true copy of 18 the order granting you until January 15, 1972, to answer the 19 complaint. 20 5. (a) That within the time allowed by the order, you 21 answered the complaint. [73-80] 22 (b) That your answer read in part: "Defendant in this 23 action denies that this court has jurisdiction over him and 24 without in any way waiving his objections to the jurisdiction of 25 [t] his court hereby files and serves his Answer, Special Defenses 26 and Counter-Claims." [73] 27 (c) That the answer contained seven special defenses. 28 [73-75] 29 (d) That the fifth, sixth and seventh special defenses 30 of the answer all asserted that the court lacked personal 31 jurisdiction over you. [75]

(f) That your brief in opposition to the motion for summary judgment further stated in part: "II. ALL OF DEFENDANT'S ACTIVITIES IN CALIFORNIA UPON WHICH PLAINTIFF PURPORTS TO BASE 'IN PERSONAM LONG ARM' JURISDICTION ARE FEDERALLY PROTECTED UNDER THE FIRST AMENDMENT." [179]

- 9. That Exhibit F attached hereto is a true copy of the order granting the motion for summary judgment. (See Exhibit A to the first amended complaint herein.) [183]
- 10. That Exhibit G (two pages) attached hereto is a true copy (omitting a final page containing only certificate of service and form of proposed order) of your application for extension of time to file notice of appeal. [184-185]

11. That Exhibit H attached hereto is a true copy of the order of October 20, 1972, denying your application for an extension of time to appeal. [188]

12. That Exhibit I attached hereto is a true copy of your notice of appeal and designation of record on appeal from the order of October 20, 1972. [190]

ROBERT R. ANDERSON

Defendant Pro Se 621 East Main Street

P. O. Box 671

Santa Paula, California 93060

-Z 4 -

STANLEY V. TUCKER 1 963 Capitol Ave Hartford, Conn 06106 2 Area Code 203-232-0282 3 OCT 19 1971 C. C. EVERISEN, Clark 5 6 7 UNITED STATES DISTRICT COURT FOR THE 8 NORTHEASTERN DISTRICT OF CALIFORNIA 9 10 JEAN NEAL, 11 Plaintiff CA No C71 1447 12 AJZ vs. 13 STANLEY V. TUCKER, SPECIAL APPEARANCE 14 Defendant Sept 15th, 1971 15 Mr Clerk: Please enter my appearace in the above entitled 16 action on behalf of the Defendant. This appearance is 17 made specially and solely for the purpose of pleading 18 to the jurisdiction of this court. 19 20 TUCKER/ DEFENDANT 21 22 23 This is to certify that copy of the foregoinghave on this 15th day of Sept 1971 been mailed, postage prepaid airmail to 24 attorneys for the Plaintiff as follows: 25 Anderson & Anderson 26 621 E. Main Street Santa Paula, California 93060 27 28 29 -2 5-30

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL.

Plaintiff.

vs.

No. C-71 1447 AJZ

STANLEY V. TUCKER,

Defendant.

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## ORDER DENYING DEFENDANT'S MOTION TO DISMISS

Plaintiff is suing to enforce a California state court judgment against defendant in the amount of \$20,763.61. Defendant has moved to dismiss on the grounds that the court lacks jurisdiction, that service of process was irregular, and that venue is improper.

The court concludes that it has jurisdiction, that service of process was made in conformity with the federal rules, and that venue is proper.

THEREFORE IT IS HEREBY ORDERED that defendant's motion to dismiss is denied.

Dated: November 16, 1971

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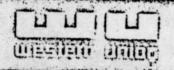
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Copies railed to parties

EXHIBIT B



Telegram

SFC238 (5)KA250 LB097 L FFH147 (AT 358FF429147)PD IPMHKBC HFD

0720P EST12/24/71 45

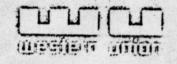
PRESIDING JUSTICE US DISTRICT COURT
450 GOLDEN GATE AVE SAN FRANCISCO CALIF

BT

RE CA C71 1447 AJZ PLEASE OFF CALENDAR OF CONTINUE PLAINTIFF MOTION FOR JUDGEMENT BY DEFAULT SET FOR DEC 27 AT 10 AM TO ABOUT JAN 27 AS MOTION RECEIVED DEC 24 AT 4PM AND MOTION TO SET ASIDE ENTRY OF DEFAULT SENT AIRMAIL AND IS SET FOR JAN 10 1972. DEFENDANT CAN FILE ANSWER AND SPECIAL DEFENSES WITHIN 1 TO 2 WEEKS OF RECEIPT OF NOTICE THAT DEFAULT WAS SET ASIDE

8F-1201 (R5-69)

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Telegram

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STANLEY V TUCKER

CA C71 1447 AJZ 27 24 10 1972 1 2

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vs.

STANLEY V. TUCKER,

Defendant.

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31 32 UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL, Plaintiff,

NOTICE OF MOTION AND MOTION TO SET ASIDE ENTRY OF DEFAULT

C. A. NO C 71 1447 AJZ

TO PLAINTIFF HEREIN AND TO HER ATTORNEYS OF RECORD: YOU WILL PLEASE TAKE NOTICE that on Monday, January 10th 1972 at 10:00 AM or as soon thereafter as matter may be heard, in the courtroom of the above-entitled court, located at Federal Building, 450 Golden Gate Ave, San Francisco, California, Defendant will move the court to set aside entry of default.

This motion will be made and based on the grounds of inadvertence and excusable neglect and confusions as to deadlines resulting from numerous papers received in mail from Plaintiff's counsel handling other cases in Los Angles. The Defendant represents he has a good and sufficient defense by reason that the Plaintiff's purported claim or judgment is not: entitled to full faith and credit by reason of denial of due process to Defendant in the state court proceedings leading to said purported judgment.

Dated: Dec 24th 1971

STANLEY V. I, Stanley V. Tucker, hereby certify that I have on this date mailed postage prepaid air mail a copy of above to Anderson & Anderson 621 E. Main St. Santa Paula, California 93081

-STANLEY V.

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL,

Plaintiff,

No. C-71 1447 AJZ

vs.

STANLEY V. TUCKER,

Defendant.

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ORDER

Motion for judgment of default having been made in this action, IT IS HEREBY ORDERED that defendant Stanley V. Tucker shall have to and including the 15th day of January, 1972 to answer the complaint. Upon his failure to do so, this court will enter judgment of default in favor of the plaintiff and against the defendant for the relief prayed for in the complaint.

Dated: January 5, 1972

United States District Judge

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Copies mailed to parties
of Record

EXHIBIT E

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# UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL,

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Plaintiff.

vs.

No. C-71-1447 AJZ

STANLEY V. TUCKER.

Defendant.

## ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

This cause came on regularly for hearing on May 22, 1972, upon plaintiff's motion for summary judgment, no one appearing for either party, and the matter being submitted. Upon consideration of the pleadings and affidavits on file, the court concludes that there is no genuine issue as to any material fact herein and that plaintiff is entitled to judgment as a matter of law. Accordingly, the plaintiff's motion for summary judgment is granted.

ADJUDGED AND DECREED that plaintiff Jean Neal recover from defendant Stanley V. Tucker the sum of \$20,723.61, with interest of 7 per cent per annum thereon from April 23, 1969 in the further sum of \$4,417.31, for a total judgment of \$25,141.70, and plaintiff's costs.

Dated: July 20,1972

United States District Judge

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AUG 31 1972

PPI-isandatone 2-18-71-76M-6996

EXHIBIT F

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### UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN NEAL,

Plaintiff.

No C-71-1447 AJZ

vs.

APPLICATION FOR EXTENSION OF TIME TO FILE NOTICE OF APPEAL

STANLEY V. TUCKER,

Defendant.

Pursuant to FRAP Rule 4 (a) Defendant applies for a (30) day extension of time within which to file his notice of appeal from judgment rendered herein July 20, 1972 and for good cause alleges as follows:

- 1. This instant action is one of three brought by Plaintiff, her relatives and attorneys as an outgrowth of malicious divorce oriented harassment that has continued over ten years.
- 2. One of the other cases has gone to the 9th Circuit Court on appeal where extensive research was required to properly brief major issues namely the applicability of the "long arm" statute of California vs the limitations of the Due Process Clause of the UNITED STATES CONSTITUTION and further the invalidity of the state court judgments as being violative of Defendant's minimum federally guaranteed rights to due process and equal protection of the laws.
- 3. The issues in this instant action are similar if not in some respects identical to the action on appeal to the 9th C. A.

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EXHIBIT G

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4. That a major victim of the divorce oriented harassment against Defendant carried out by Plaintiff, her relatives and her attorneys has been Defendant's 21 year old.son, a long haired drop out from two colleges, a consciencious objector who appears often motivated by irrational fears Defendant believes in part acquired from his mother and in part due to long term exposure to harassment of his Father (Defendant) by his mothers seeking to arrest and prosecute his Father (Defendant) on trivialities, all arrests ending in dismissals, plus further long term exposure to court harrassment.

5. During August 1972 Robert and his friend, Dave, came to Connecticut working under supervision and in custody of Defendant herein to earn money to go to college, Defendant having his son here for the short span of less than a month, one of few occasions since divorce proceedings started in Los Angeles in 1958 was heavily pre-occupied with college enrollment of his son, his daily care, work, supervision, etc., work often involved travelling daily a distance of 45 miles more or less.

- 6. As a result of pre-occupaion with care, custody, education of his son Defendant missed getting a notice of appeal in within time proscribed by Rule 4 (a) FRAP.
- 7. Defendant believes his time spent on and with his son worth while as son is now enrolled in two courses at Virginia Commonwealth Institute and plans to take full time courses in January 1973.

PRAYS THAT THIS COURT MAKE ITS ORDER GRANTING ADDITIONAL
30 DAYS WITHIN WHICH TO FILE NOTICE OF APPEAL.

Dated: September 13, 1972 By Standard Tuesday

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA JEAN NEAL, 10 11 Plaintiff, 12 . vs. No. C-71-1447 AJZ 13 STANLEY V. TUCKER, 14 Defendant. 15 ORDER DENYING APPLICATION FOR EXTENSION OF TIME TO FILE NOTICE 16 OF APPEAL 17 The application for extension of time to file notice 18 of appeal in the above entitled matter is DENIED. 19 Dated: October 20, 1972 20 21 22 23 24 25 26 27

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1 STANLEY V. TUCKER 963 Capitol Ave 2 Hartford, Conn 06106 3 203 232-0282 4 5 6 7 8 9 10 JEAN NEAL, 11 12 VS. STANLEY V. TUCKER, 13 14 15

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CHARLES J. ULFERS, CLERK

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CHARLES J. ULFERS, CLERK

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

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vs.

Plaintiff.

NO C 71-1447 AJZ

NOTICE OF APPEAL

STANLEY V. TUCKER.

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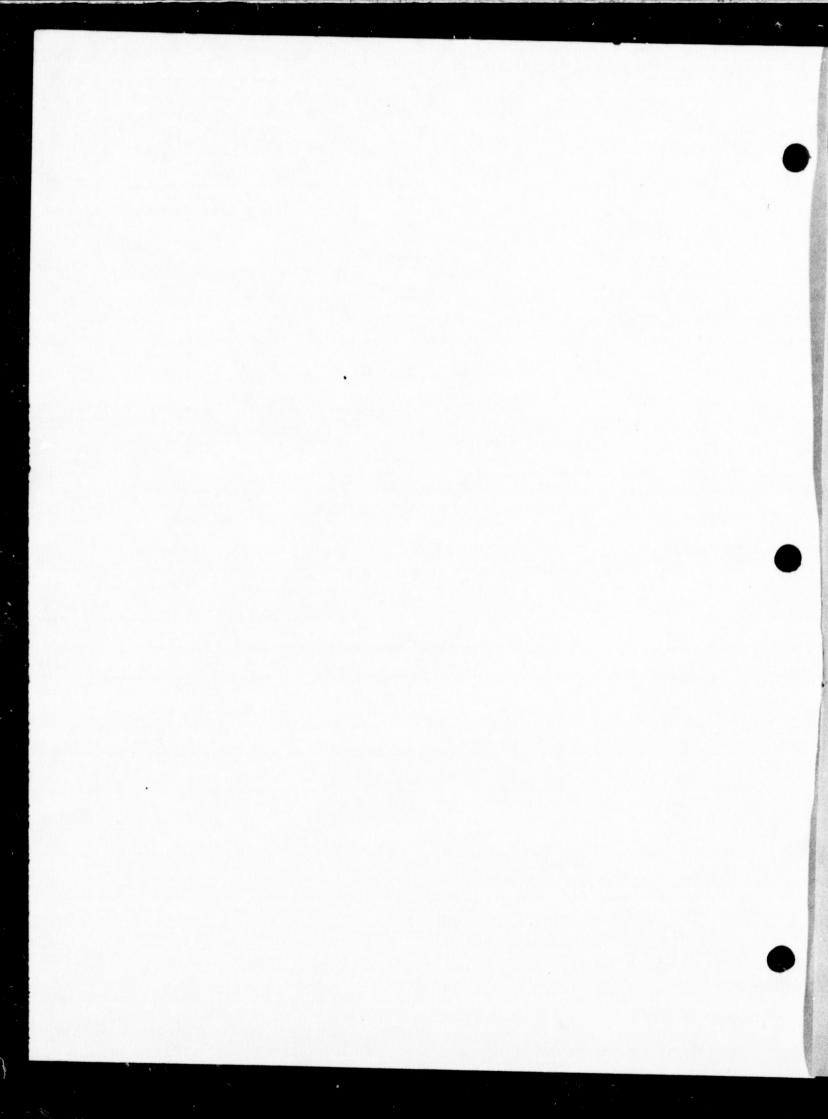
Defendant. DESIGNATION OF RECORD ON APPEAL

NOTICE is given that STANLEY V. TUCKER, DEFENDANT, herein, hereby appeals to the UNITED STATES CIRCUIT COURT OF APPEAL FOR THE NINETH CIRCUIT from the order made and/or entered herein on or about October 20, 1972 denying Defendant's Application For Extension of Time to file notice of Appeal.

Dated: October 30th, 1972

By Stalley V. Tucker

STANLEY V. TUCKER



### CERTIFICATE OF SERVICE BY MAIL

I, STANLEY V, TUCKER, hereby certify that on the 22nd day of
October 1974 I served the document annexed, APPELLANT'S SUPPLEMENTAL,
APP ENDIX
on the Appellees herein by mailing 1 true copy thereof postage
prepaid air mail by depositing in the United States mails at
Hartford Conn addressed as follows:

JEAN NEAL

ROBERT R. ANDERSON

ANDERSON & ANDERSON

621 E. Main St

Santa Paula, Calif

621 E. Main St

Santa Paula, Calif.

SMANTEY W DIVIZED